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SHEIKH ABDULLAH DEFENDED

By
Mirza Mohammed Afzal Beg

THE KASHMIR CONSPIRACY CASE
Report No. IX (IV)
Topic No. IV

Sheikh Abdullah Defended

By
Mirza Mohammed Afzal Beg
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Published by
Kh. Mubarak Shah, Secretary (Publicity)
Jammu & Kashmir Legal Defence Committee,
Shaheedganj, Srinagar,
Kashmir.

Sale Proceeds

To

J & K Legal Defence Funds

Price : Rs. 4-00 nP.

DS 485

K2 B4-31



"Brothers and sisters, let us be determined that this movement shall continue to be non-communal as it has been for the past 27 years. We will stand steadfast on that.

And in future as well it shall be non-violent and be based on truth."

(Translated from Prosecution report of Sheikh Saheb's speech on Feb. 21, 1958—Vide ExP. 269/D/ 1).

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PREFACE

Since the 9th August, 1953, coup d'etat of Kashmir, the result of pre-planned conspiracy by which Sheikh Abdullah's govt. was thrown out, and his colleagues sacked, the campaign of vilification against him had continued unabated. The coup stagers had accused him of having "conspired with USA against India and Pakistan in keeping the State separate from both with a view to converting it into a war base." The propaganda had been carried widely and with vigour.

During his detention from 9th August, 1953, to 8th January, 1958, he had time and again demanded to be given an opportunity to explain himself and answer the accusations hurled at his back. He was not allowed to participate in the Constituent Assembly whose architect he was called, even up to the time when that Assembly finalising its Constitution was adjourned, *sine die* in 1957. He had remonstrated to be heard but all was in vain. Almost for all this period of agony, he was kept in a special jail improvised in a jungle-corner near the Kud village.

Suddenly on the evening of 8th January, 1958, he was released and asked to go out of the prison. He moved himself to the roadside, finding no arrangements to go to his home. A distance of 140 miles through snow-covered mountainous road separated him from Srinagar. Before divulging the release order, the Police chief of the State volunteered to oblige him by offering that he would take him to Srinagar in his own vehicle. He declined the

offer, resulting in his being stranded on the roadside. He tried in vain to be allowed to contact his friends through telephone or telegrams. "I have come from a smaller prison to a larger one," he exclaimed. Such was his first experience.

The atmosphere seemed surcharged with terror and coercion. It appeared that though the public opinion all over against his long detention had pressed for his release, perhaps, as later events proved, those at the helm of State affairs were busy in fresh plans to rearrest him. He instinctively foresaw the game and informed a friend immediately, in a letter: "My definite information is that hirelings, goondas, paid agents, anti-social elements have been mustered strong to coerce people. Their tactics are already on display. You can judge for yourself what vicious atmosphere may have been created in the Valley when people living in such far-flung area, as Doda, are being subjected to hardships and harassments.

"My sole and heartfelt desire is that peaceful atmosphere should exist.....But from reports received, I can only gather that the intentions of the vested interest are otherwise."

On the cold and misty morning of the 10th January, he found, to his surprise, a host of Press correspondents coming to the solitary place of Kud at such an odd season of the year. Why they have come and how? While he himself had been refused transport, the Press correspondents had been flown to Srinagar from where they had come to this place in government vehicles. Subsequent events established that the purpose of mobbing Sheikh

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Saheb when he was still almost at the jail door was to give a twist to his words, justify repression and create a vicious atmosphere against him before he could clarify himself. So new situations were being created with purpose. Simultaneously the Police force had been fanned out throughout the Valley to strike terror. The "Peace Brigade"—a crowd of anti-social elements organised and paid to create trouble as a pretext for intervention by force—had been spread out and stationed at each place. All measures to terrorise the atmosphere and confuse the public mind had been taken.

The Press correspondents confronted him with strange questions. "What do you think of Nehru?" asked one. The other followed, asking, "Do you now take the Kashmir issue finalised?" He politely answered and said "I have the same respect and love for Pandit Nehru as I had in the past". Suspecting that these friends were at a game he wrote immediately to a friend: "Press representatives met me here this morning. I told them, among other things, that in no case I betrayed India rather I was betrayed.....You will watch carefully that no distortions take place which would complicate the situation further".

Hostile comments of a section of the press, even before he had reached Srinagar, showed clearly that the atmosphere was being created for some set purpose. But he felt helpless before the campaign.

News of his release had already reached the Valley which felt resuscitated. Everywhere people in thousands came out of their homes in biting cold and in spite of

police repression and Peace Brigade terror to frighten them off, they had waited on the roadside till he reached the Valley three days after. On his way he addressed these gatherings who were dancing and singing with joy little knowing that their rejoicing episode would be very brief.

The biggest of these gatherings were at Dayalgam and Islamabad. Surprisingly enough, some press men, sitting at Srinagar, had already covered his speech at Islamabad and despatched it at 12 noon though Sheikh Saheb actually addressed the meeting 2 hours later.

He reached Srinagar late in the evening. The whole city had come out with tremendous enthusiasm and spontaneous jubilation to receive him back. It took him more than 6 hours to cover a few miles on which the population of the city had spread out. From the next morning string of people began to visit him at his home in Saura. In spite of police repression, thousands thronged to his home every day. There seemed to be no end to the number of people visiting him. Then he himself moved out.

He went from place to place in Srinagar and addressed many meetings of Hindus, Muslims and Sikhs. 4½ years of total suppression had suffocated their soul. Squeezed in fear, deprived of the feeling of security and longing for deliverance from agony and misery, they looked up to him with hope. He was their hope, their looks showed. He consoled them, heartened them and told them "God, our Sustainer, is the Hope of all". They began shaking off fear, and regaining self-confidence and self-respect.

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After years they were seen holding their heads high. This aroused the authorities' wrath. They felt unnerved.

Hardly six weeks after his release general arrests of his colleagues and workers throughout the Valley were made on the pretext of Hazratbal incident. It was sought to isolate and gag him. But he continued, single-handed, to approach the masses for creating the atmosphere of peace and climate of friendship so that understandings could be promoted. Those at the helm of affairs, however, wanted complete silence. So on 7th March, just two months after his release, the State Government clamped the whole Valley with imposition of Sec. 50 of Security Rules, banning all meetings and gatherings even in private houses. Thus was sought to silence the voice which preached communal harmony, peace and friendship for creating conducive atmosphere for the solution of the people's knotty problem. To this fresh provocation which was intended to create excuse for painting him in black colours and rearresting him, he answered by declaring that he would not defy the ban and would try to achieve his purpose and clarify his stand through other means. Accordingly, on 11th April, 1958, he wrote a letter to the Prime Minister of India, in which he explained :

“Since my release from detention Bakshi Ghulam Mohammed and his supporters are deliberately giving publicity to false and mischievous reports about my activities in order to cover up their past misdeeds. This is extremely sad. Under cover of this propaganda hundreds of Kashmiris belonging to various walks of life—lawyers, doctors, businessmen, ex-ministers of the State and ex-members of

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the Indian Parliament etc.—have been either detained without any charge-sheet or involved in fictitious cases, criminal or otherwise. They are being given most shabby treatment in various lock-ups and provided with meals and other necessities of life hardly worth ten annas a day. They are not allowed to receive private beddings and are often refused eatables from their home people. In fact the treatment accorded to them is worst than a convicted criminal is receiving at the hands of the jail authorities. The police deliberately adopts delaying tactics in completing the chalangues of the accused in order to cause maximum amount of mental and physical torture to them while they remain in their custody. Some of the most respectable persons have been taken to the interrogation centre of the Intelligence Bureau, Government of India, where they are being tortured in a way reminiscent of Nazi Concentration Camps in order to force them to give or sign false statements involving popular leaders in treason charges. With the promulgation of Rule 50 of the Defence Rules, prohibiting public meetings and processions, the whole Valley has become almost a graveyard. C.R.P., Peace Brigade, Militia and the Police have been spread in the city and in all the corners of the Valley and the Doda District to spread terror in the minds of the people. Daily arrests are being effected without any rhyme or reason on absolutely false and fictitious charges and the victims carried into various lock-ups and tortured...

“I am amazed at the recent utterances of Bakshi Ghulam Mohammed, at Hyderabad and Bombay, in which he has accused me of organising a force of Raza-

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kars and raising funds for the same in order to make all-out attack on the Government at a suitable time. This is yet another fantasy of the man who has betrayed not only the people of Kashmir but also his own benefactor to gain personal power and accumulate wealth for his family through corruption and other foul means. In 1953 he succeeded in misleading you and some of your other colleagues and the result was August tragedy. Then he charged me with having entered into a conspiracy with a foreign power to gain independence for the State. He threatened to publish my correspondence with you, the late Maulana Azad and Rafi Ahmed Kidwai, to substantiate his charge. He has not done so up till now. Having failed to prove this charge, he is again at his old game and along with his other co-conspirators, both here and in Delhi, is trying to create most vicious atmosphere in the country about me and my activities. I hope you will not be deceived twice by the man who is devoid of all moral principles and decency.....

“In spite of all what has happened since August, 1953, I still believe that the key of the solution lies in your hands and I appeal to you not to be deceived by Bakshi Ghulam Mohammed and his other supporters in pursuing a policy which, in the end, is bound to prove disastrous for all...”

This was the month of Ramzan when Muslims generally observe fast. Sheikh Saheb remained in his home throughout. The terrorising of the people continued and daily heart-rending stories of atrocities committed on innocent people poured into his house. He, however, ad-

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vised them to remain unperturbed, peaceful and calm against agent provocateurs.

It was at this time, i.e. last week of April that Shri-mati Vijayalakshmi Pandit came to Srinagar on a private visit. A meeting between her and Sheikh Saheb was arranged. But just one day before they could meet, the new drama was staged. On the midnight of 28th April, 1958, Sheikh Saheb found his house besieged by a large contingent of armed Police. He was arrested and whisked away again to Kud jail under the Preventive Detention Act. Thus fell the curtain on the scene of his release staged on 8th January 1958.

Entering his room in the jail he found all things intact as he had left them nearly four months back. Even articles of his personal use were found by him exactly in the position in which he had left them. This was another proof of the preplanned purpose behind his release. It seems as if they were waiting for him and he had gone out only on a short leave.

One day the Police chief dropped in and an inmate of the jail asked him "why should he have been released at all if it had been intended to imprison him again?" He replied : "To find his overt act".

But what did that mean? The meaning was clear when on 23rd October, 1958 i.e. 6 months after his rearrest, a contingent of Police force arrived at the jail with a non-bailable warrant issued against him by the Special Magis-

trate before whom the Police chief had complained and lodged a case called 'Kashmir Conspiracy Case' in May, 1958. Now Sheikh Abdullah was accused of having committed criminal conspiracy to overthrow the government by show and use of criminal force in order to annex the State with Pakistan.

It will be recalled that in 1953 for the overthrow of his government and his detention justification was sought by campaigning that he had conspired with U.S.A. through its representative Adlai Stevenson. Therefore, on his release, 4½ years later, he had occasionally demanded [that a thorough enquiry be made into such wild charges "which have far-reaching consequences". In his speeches he had emphatically demanded and asked, "the accusation must be enquired into and if they can prove any thing I am prepared to undergo any punishment.....I will go from door to door in India and beg pardon." Now the irony was that instead of such an inquiry he was to face the fresh charge of having conspired to overthrow the Government and not of allegedly conspiring with America.

During his short release Sheikh Mohammed Abdullah had delivered dozens of speeches. Out of these the Prosecution produced its own reports of 8 speeches as evidence of their charge against him.

The complaint says that upon his dismissal and detention on 9th August, 1953, Sheikh Abdullah, his relatives and colleagues conspired to overthrow, by use and show of criminal force, the government of the State so that its territories be annexed by Pakistan. The centre of

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conspiratorial activities, the complaint says, was the Kud jail where Sheikh Abdullah dictated letters which, though passed by the jail censors and other censors at the time, are evidence of the conspiracy. According to the Prosecution, the scheme devised to achieve the purpose of the conspiracy was to create amongst the members of the public contempt and dissatisfaction towards the government of the State, to create communal ill-feelings and disharmony and disturbance of peace etc. For this purpose, it is alleged, "a series of inflammatory speeches were delivered by Sheikh Abdullah and, in particular, one on 21st February, 1958."

Paragraph 12 of the complaint is to the effect that the State authorities had come to know the existence of the conspiracy, its objects and means to achieve it, through FIR 100, lodged on 9th October, 1957. In spite of numerous requests of the Defence to get this FIR produced before the court, it is still awaited.

As evidence of their charge against him, the Prosecution has, in addition to the Police reports of 8 of Sheikh Saheb's speeches, exhibited copies of some letters alleged to have been dictated and sent from jail under censor.

Mirza Mohammed Afzal Beg, former Revenue Minister and one of the accused in the Conspiracy Case, defending himself and Sheikh Saheb, has argued at length on Sheikh Saheb's speeches and letters.

This books contains that part of Mr. Beg's arguments which deal with Sheikh Abdullah's speeches and letters as

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presented by the Prosecution. He points out what inference can justifiably be drawn. Mr. Beg's arguments were taken down verbatim both by Prosecution and Defence.

It is hoped that through this book the reader will be able to have a glance at some consolidated proceedings in the case.

For facility of readers, sub-headings have been taken from the text of the each day's proceedings.

Great care has been taken to reproduce these arguments as exactly as they were addressed by Mr. Beg. However, we request for indulgence for any shortcoming, if found.

15th November, 1961.

Mubarak Shah.

AT A GLANCE

The following quotations are from the text of the book :

“He says that the only way of bringing up permanent settlement is that the parties should concede the right of self-determination to the people of Kashmir.....

“If difficulties have cropped up, find an alternative and try honestly to put forward an alternative which should be acceptable to all concerned parties.

*

“As the speaker was speaking in Kashmiri the reporter would make instantaneous translation thereof in Urdu and then take it down in shorthand. Now, this is a process in the ordinary course of which many words would slip off. Such slips are bound to affect the sense here and there necessarily.

“It is clear from his own statement that he is not conversant with Arabic or Persian grammar. He has not studied Persian language and his general knowledge about that literature and Islamic history is, I say with respect, very poor.

*

“According to the context, the reference to 9th August happenings is to express his (Sheikh Saheb's) extreme

surprise. He says I am surprised. I cannot associate the happenings with Panditji. It is certainly not exciting people. Surprise is something totally different from intention to excite people or provoke them.

“Now, it is Hazrat Siddiq's Day and the speaker is talking of steadfast adherence to truth. Sir, if you ban such teachings you might ban the activities of any reformer in the world. Even Gandhiji's preaching would be an offence of treason then.

*

“Who denies freedom? You or we? You deny it. You rob us of the right of innocent criticism. Who subverts the Constitution—you or we?

*

“You cannot become a ‘momin’ or Muslim merely by dressing as a Muslim. ‘Tauheed’ means ‘wahdat’—oneness of God. Those who believe in God, God puts them under many trials and tests. If they come out from those trials with unshaken faith then they deserve to be called Muslims. If I am a Muslim, I must suffer privation and hardships patiently, that is, “Azmaish”. I must not deviate from the right path in spite of troubles and tribulations. If I successfully suffer without being tempted to accept relief through evil ways and means, then I am a true Musalman.

“The speaker then says : “Even in your homes you were not safe”. I will produce files of papers not friendly

to us like 'Martand', which have been shouting and protesting that their honour is not safe in the hands of Peace Brigade and Police in this country.

*

"People were bribed, but he says 'truth will succeed'. Can you penalise the speaker for saying that? Gandhiji has thousands of times said that truth will prevail, all the followers of Gandhiji today repeat it. Vinobaji says 'truth shall prevail'. But when Sheikh Saheb says the same thing, you accuse him of saying that he is personifying himself with truth. It is a motto hung in Government of India Assembly Hall that "Truth Shall Prevail". Now, can you say that Government of India is thereby personifying itself with truth and all others with falsehood? That would be a torture of words. But that is the crux of prosecution argument.

*

"Sheikh Saheb recollects friendly relations with India and intimately friendly relations with Pandit Jawaharlal Nehru. He admits with gratitude the help that India and Panditji gave. But he says that the dispute about Kashmir was there.

"On the one hand India claimed it and on the other Pakistan claimed it. Finally the matter went to the Security Council and India repeatedly said that it is the people of Kashmir who alone can decide their future. Now, Sir to remind India of this promise, even to men-

tion it, is advanced as evidence of treason against us !
And thereby hangs a tale.

*

"Sheikh Saheb is not the man to preach violence or use criminal force. Gandhiji has times without number said, "Do not depend on material forces, depend on moral forces". Panditji has said hundreds of times in reference to Kashmir that he wants union of hearts and not force of armies to bring Kashmir to India. Exactly the same thing Sheikh Saheb has said. This passage is the operative part and the spirit of the whole speech.

"Sheikh Saheb is very condemnatory about those persons who depend on money, arms, bullets for achieving certain ends.

*

"They claim now that whatever the Assembly has passed even God cannot change. It is irrevocable. A man with a legal sense, is outraged to hear that a particular clause in the Constitution is irrevocable and never till eternity can it be altered.

"The moment you put in any unalterable clause in any Act or Constitution which can never be, 'till eternity' changed, that very moment you deny the sovereign right of the people. You bang the door of Constitutional procedure. In democratic age do you write such a

(cont)

Constitution? Sheikh Sahab might have bitterly commented on that, but is that treason?

*

"Gita has taught you to stand by truth even if that truth is against your dear ones and judge me accordingly. There are lakhs of people in India who love me still". Is that an indication of hatred against India or Indians? Gandhiji very pitily one day put to a magistrate: "You can sentence me for spreading disaffection against the Government, but you cannot control my affection that I must love the Government. It is a long way between spreading disaffection and not loving. There is no provision in the penal code to the effect that thou shalt love me".

*

"Malicious propaganda against Sheikh Sahab was set afoot on 9th August, carried on vigorously through press and word of mouth, throughout the 4½ years he was in jail. In and outside India considerable maligning and character-assassination was taken recourse to.

"His first duty after release will be to explain to the people that he had not let them down, that the charges were false one by one, that he had not sold their honour and dignity and that he had not betrayed the movement of which he was symbol and for which hundreds had shed down their blood, hundreds had courted imprisonments and hundreds had suffered privations.

*

“When a Minister resigns even he has a right to make a statement before the House. This right he is given by the Constitution. But this is denied in the case of Sheikh Saheb. Sheikh Saheb makes efforts, I also make efforts to persuade the ruling party to concede this basic human right. But this is not done. May I ask who advocates unconstitutional methods, who practises unconstitutional methods? It is very easy and cheap to talk of democracy and human values. But what is being done in Kashmir? History is replete with instances that you kill democracy and human values in Kashmir. You trample civil liberties and unabashedly deny even to the leader the right to appear before the Assembly. You cannot have bouquets from us for this.

*

“If they deny that, then why did they not release Sheikh Saheb during the general elections? No harm would have been done if instead of 8th January 1958 he was released in March 1957. With the people's leader in lock-up and jail, you boost up other men. Just read what Mr. Ghulam Mohd. Sadiq (now a minister) has said in the election petitions of Democratic National Conference. They have fully exposed the fraudulent character of Kashmir elections.

*

“As far as driving out outside troops is concerned, Govt. of India undertook that duty. May I say that they don't want now that Pakistan troops should go. There

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is a tremendous proof, for that. The present Indian attitude is to let Pakistan have that part of the State and keep to themselves this part. India offered that as a price for plebiscite. You don't like Pakistan to leave. Otherwise India can get that part vacated, and our support will be there, provided India abides by her pledge of a free plebiscite. There is the rub. You don't want to hold the plebiscite, you want to give 1/3rd of the State to Pakistan as a price to hush up the plebiscite demand. You now accuse Sheikh Saheb for not referring to withdrawal of troops. Govt. of India is suggesting to Pakistan to freeze the cease-fire line with minor adjustments here and there, and cast to winds the solemn pledge of plebiscite. But when I remind them to fulfill their obligation they accuse me that I don't press Pakistan to withdraw troops ! My words will be meaningless. India which has armies, which has power, which gave us the promise, they are not keen about demilitarisation. It is a hard fact.

*

"Mr. Krishna Menon made a similar charge against Sheikh Saheb in the Security Council. The speaker asks (in the name of Gandhiji whose two legacies to India were truth and non-violence) "Does it befit you to say that I conspired with America?" He just makes an appeal to them asking "Does it behove you as followers of Gandhiji who left behind the legacy of faith in truth, to level an absolutely false charge against me?" How is it treasonable? The statement is unexceptionable.

*

“In a democracy it will be fantastic nonsense to deny people the right to criticise restrictions on press and to distort such criticism to mean hatred ; then argue that it is hatred against the government and hence an attempt to overthrow the government. It is sheer non-sense.

*

“Then, the second charge of prosecution is that Sheikh Sahab wants the Preventive Detention Act to be repealedIn India, in and outside the Parliament, in press and from the platform, this Preventive Detention Act is condemned as a black law on the Statute Book. The Kashmir Detention Act is much blacker, more repressive and rigorous than the Indian one. One of the High Court judges said that the State Preventive Detention Act is harsher. It provides 10 years' detention here.

*

“If I say that Bakshi Sahab and Sadiq Sahab support the communique (of 1953) of Prime Ministers of India and Pakistan, will that show any conspiracy ? That is a historical fact and there is no basis, even remotest, that any conspiracy can be inferred from this statement of Sheikh Sahab.

*

“His continued detention without trial was open to criticism. To justify his detention and dismissal all lies were invented and circulated. He says that he will place

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his case before the Indian public. Sheikh Saheb indicates that his adversaries were afraid that there were friends of Sheikh Saheb in India who will listen to him. In that context he says that they cling to Gandhiji and exploit his name.

*

"I speak with fullest responsibility that we hold our old comrades Bakeshi Ghulam Mohd. and others in esteem as our old comrades and treat their children and kith and kin as our own children and kith and kin. It will be highly derogatory to attribute expressions like the one in question to any of us, more so to a personality like Sheikh Saheb.

*

"He says that at that time, as follower of the Prophet I came forward to protect Hindus' life and honour, even though exactly at the same time Hindu leaders had run away and Muslims were being slaughtered. At that moment of supreme crisis as a true follower of Mohammed he protected the life and honour of minority which was in danger. This is exactly that millions of followers of Prophet must be told on this day that notwithstanding very great provocations they should keep their heads cool.

*

"He fought against the two-nation theory so boldly, and at the time of crisis in 1947, he stood head and

shoulders above communal bias. In that context Gandhiji had said that there was a ray of humanity shedding light from Himalayas.

*

“He says when the minority is in danger, offer your own life to protect it and if the majority is in danger, sacrifice your life to protect. That is as we have understood to be the principle of secularism. That is real test.

*

“If Government of India had differences with Kerala Government, whom they charged for subverting the Constitution, what did they do? Not overthrow and arrest them.

*

“You moved the provisions of the Constitution there. But in Kashmir, you subverted the Constitution completely, and murdered democracy. He who had given his life for democracy has a right to ask this. Your honour will not call it treason.

*

“An outstanding leader on whom alone you depend for the accession of this State, you overthrow him overnight unconstitutionally.

*

“I repudiate the inference that the idea of arrest has obsessed Sheikh Saheb's mind. It is contradicted by the contents of the speech. He says both as Prime Minister of the State and President of the mighty organisation, National Conference, we fought for freedom and against communalism, when most of the minority communities were against us. We were facing Maharaja's bullets in those days and they were basking in the sun of Maharaja's favours. One of them has become a great leader now. Have we not a right to say that? Does he become a patriot and secular-minded because today he abuses Sheikh Saheb? He is one who in 1946 led black-flag demonstration at Kohala and hooted down the would be Prime Minister of India.

*

“At that time why did we differ from the Muslim League outlook? Because Muslim League held that the rulers, and not the people, were the sovereign. Congress said, 'No' to this. It held that sovereignty vests in people.

*

“Jawaharlalji himself and Mahatma Gandhi too have emphasised this basis of unity of outlook and this was the basis at one time, that worked as a cementing force. Sheikh Saheb has a right to remind the people and the audience of that basis.

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(xxiv).

"The instant case is because of this inference which is obsessing their mind that there is a clear exhortation to sever relations with India. Now that is the crux of the matter. We do not mind whoever judges us, we want to highlight this obsession in the prosecutor's mind that we will not vote for India in plebiscite.

*

"There is Political Conference which stands for vote for Pakistan. There are others who have published tremendous literature, like Pandit Prem Nath Bazaz that Kashmir's appropriate place is in Pakistan. You bring these allegations against us simply because about Sheikh Mohd. Abdullah you have your preconceived notions that he will not ask the people to vote for India. Therefore, you cook up this case of treason.

*

"I have throughout pointed to your honour that Sheikh Sahab is applauding the great sacrifices made by Pt. Nehru for Kashmir's cause. He has publicly said repeatedly that he sent his troops to save the right of self-determination of the people of Kashmir and that he courted imprisonment himself to preserve that right.

*

"If a public man of the stature of Sheikh Sahab says that the present uncertainty and insecurity is like the sword of Damocles hanging on the heads of the people, he

(over)

is not advocating violence. He is advocating the cause of peace.....

He is fighting cold war, the man who is being prosecuted for high treason.....

*

"Every patriot must cherish the desire that friendship and amity should be the means to settle this dispute, not the booby traps not the gun-cotton slabs. That is the only solution—friendship and amity.

*

"Here is his approach to life, exemplified by historical facts, that the great Napoleon, Emperor Changiz Khan, Alexander the Great, in spite of their greatness, power and all that, failed to conquer the heart of man though they conquered earth. Therefore, his insistence on the ideal of conquering hearts.

*

"It is very important from our point of view. Amidst the greatest misfortunes and worries facing them, he counsels : "God tells you to suffer patiently and quietly". He tells them "it is God's command and you are ungodly if you deviate from them". He does not tell them to rise up, burn, kill and loot. But, "If you are in troubles go back to God and pray". And to whom is he preaching this ! To Muslims whom he is accused of having incited to revolt. We are conscious of the fact that tremendous responsibility devolves on Muslims as a majority commu-

nity. Political obligations devolve on them. I hold my head high that they discharged creditably their responsibility in 1947 in Kashmir. It was acknowledged by the highest in the land—by Jawaharlal Nehru and Mahatma. But that was good enough then, we are suspects now.

*

“Kindly underline these words. ‘Ayanda bhi ham isi rah par qaim rahenge’. This was another point on which vow had been taken in the holy shrine of the Prophet of Islam on the most sacred occasion. One is that they shall be peaceful and second is they shall be above-communalism.

*

“The old National Conference - that mighty organisation—is now no more. It has gone to bits. As I explained in my statement, this National Conference “CIA ki laundi bankar reh gai hai”. The speaker says : “Woh ghonsla ham ne phir banana hai”. Can we not even talk about National Conference now ? Can we not criticise it ? Is that treason ? That is the freedom we have got.

*

“After the disruption of the National Conference, we have got no regular organisation of ‘razakars’ or volunteers. As usual this word ‘razakar’ has been distorted by the prosecution. ‘Razakars’ mean nothing but volunteers. ‘Raza’ means ‘free will’ or voluntary, and ‘kars’ means an ‘act’, i.e. one who volunteers. Your honour will recollect that somewhat horrible interpreta-

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tion was given to this word by the prosecution. "It is not an ordinary batch of people" they said. I repudiate all such insinuations.

*

"I challenge the prosecution to point out a single word in the whole speech, of excitement, hatred or to overthrow the Government by force. I challenge the prosecution to point out a single word which will provoke anybody. On the other hand I claim, without fear of contradiction, that the speech is based on enunciation and emphasis on (1) non-violence, (2) love, (3) spiritual powers and moral values, and (4) self-purification.

*

"I am commenting on this document as it is before me, with all the assumptions made by the prosecution. How did on 9th August Bakshi Ghulam Mohd. become Prime Minister? Not through legal ways. The speaker might be commenting on that. On that day Constitution was scrapped, no reference to the Legislative Assembly was made for vote of confidence. That procedure is the corner stone of a democratic Constitution. All means other than constitutional are illegal.

*

"He warns people that through agent-provocateurs peace of the country is being disturbed. Now, the allegation is that the speaker was disturbing the peace. He would be the last person, if interested in disturbance of

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peace, to preach down to his audience "sarkari agenton ke zariya se ki is mulk ka aman kharab ho jaye".

*

"I might give offence to an individual. It is for the individual to complain, and not for a political party to take the cover of the State, and start a case of treason. Law should not be used to wreak personal vengeance.

"There is nothing of treason, nothing of riot, nothing of lawlessness in these utterances. "Yahi nahin Kashmir ke chalees lakh mard, aurten aur Hindustan ke 35 karor admion se main muafi mangoonga". Now, nobody can talk with a greater depth of conviction than he does about his peaceful intention. He is ready to go and apologise before crores of Indians—Hindus, Muslims and Sikhs ; and men, women and children of Kashmir if he has been guilty of betrayal and of letting down the people. But it is not tolerated that the people should know the truth.

*

"Can we attribute communalism to the preacher who begs of Hindus to be true followers of Lord Krishna and to act on Bhagvat Gita ? He begs of Sikhs to be the true followers of Guruji. He beseeches everyone, whether he is Mr. Saraf or Lachhman Singh—to both of them he tells follow your Gita and Guru.

*

“This is an appeal to Hindus and Muslims alike that if a Hindu or a Muslim does mischief, then they should oppose him jointly. If Hindu is a wrong-doer, do not make it a communal question, and when Muslim is a wrong-doer, do not give it a communal colour. Far from preaching communal hatred he is strongly, emphatically and vehemently asking Hindus and Muslims to combine and make a united front against lawlessness.

*

“What more pledge, what more guarantee should there be that “you can raise your hand against the honour of a Hindu over my dead body”. I have said in my written statement that this slogan of communal harmony is not a political expedience with us. It is a matter of creed which has gone deep into our blood since 1931, and with these traditions I laid the foundation of the Plebiscite Front. This creed of peace and communal harmony, I have called ‘our beacon-light’. I am proud of it, my organisation is proud of it. And to the last breath we shall stand by this ideal.

*

“Hard fact is that our State is divided and hard fact is that there are United Nations Observers in the State. Those who do not take note of these realities are living in fools’ paradise.

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“He asks them to stand up united against this lawlessness. “If the victim of lawlessness is a Hindu lady, protect her honour because today her honour is at stake, tomorrow it may be the honour of your own women-folk. Consider her honour as your honour. Stand up jointly.” I challenge the prosecution to show me if Mahatmaji used a different language while emphasising Hindu-Muslim unity.

*

“The only issue here is : What is Sheikh Saheb advocating ? Is it violent and illegal way, or a democratic and Constitutional way ? Is it a communal way or a communally-harmonised way, a peaceful way ? That is the issue here. Here the issue is not that prosecution are giving an alternative for settling the Kashmir dispute.

*

“Only the other day, nearly 200 cases against the Democratic National Conference workers were withdrawn from the courts, as soon as they agreed to support the Government and reiterate that Kashmir’s accession was irrevocable. But in our case, even evidence is fabricated and our statements and speeches are distorted.

*

“Here Sheikh Saheb has said that so far as Panditji is concerned, he considers himself a member of his family

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and he respects him. It is not intended to excite ill-feelings or hatred.

*

“Throughout he has said that in regard to the State’s relations with India whatever has taken place in the past is subject to the promise of plebiscite. He recalls that when the two Prime Ministers met in Delhi in 1953 they issued a communique in which they re-emphasised the settlement by plebiscite. Bakshi Ghulam Mohammed said that this communique had been issued with his consent.

*

“It is rather surprising that prosecution is seeking from the court that the judicial view about circulation of these documents, i.e. about freedom of speech and conscience, must be more strict and more rigid than that of the executive subordinate officers of the Government... That is to say, what little freedom the executive allowed, the judicial court should disallow.

*

“The contents of these letters have copiously quoted from late Maulana Abul Kalam Azad’s work “Shaheed-e-Azam”—the Great Martyr Hazrat Imam Hussain, grand-son of the Prophet of Islam. The late Maulana has written a monumental work on the great martyr, and

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Sheikh Saheb has profusely quoted from it and other works of Maulana.

*

“My final comment is that these letters are full of teachings of human values and that they establish our defence that we believe, as Sheikh Saheb has always done, in communal brotherhood and harmony, in having settlement of political issues by peaceful and democratic methods and that these letters are an irrefutable negation of the allegations brought by prosecution.

*

“I would draw your attention to ExP. 117. It talks of poultry which we kept in jail. I share that hobby with Sheikh Saheb. It is a letter dated 31-12-57. So, there are ‘ande’, ‘murghi’ ‘murghi ke neeche ande’, etc. Everything tallies with what I said in my letter ExP. 117 which is challenged by the prosecution. Some eggs have come off and he has five chicks. Sir, I hold the whole prosecution case is full of obsession and mental trouble. There is nothing in these eggs, but the obsession is there. Prosecution saw bombs in eggs, gun-cotton slabs in eggs, booby-traps in eggs.

*



"I challenge the prosecution to point out a single word in the whole speech, of excitement, hatred or for overthrow of the government by force. I challenge the prosecution to point a single word which will provoke anybody. On the other hand I claim, without fear of contradiction, that the speech is based on enunciation and emphasis on (1) non-violence, (2) love, (3) spiritual powers and moral values, and (4) self-purification."

—Mirza Mohammed Afzal Beg
On Sheikh Mohammed Abdullah's speech :
21 st February 1958.
Page 223.

CHAPTER I
Defence Arguments
(17th May 1961)
By
MIRZA MOHAMMED AFZAL BEG
On
Sheikh Mohammed Abdullah's Speech :

ExP. 269
Dated 13th January 1958

CHAPTER I

(17th May 1961)

(A)

Merits of the prosecution witnesses :

Now, Sir, I shall come to Sheikh Saheb's speeches. Before going into Sheikh Saheb's speeches we shall have to look to the statement of Mr. Shiv Nath Tikoo, reporter, PW 149 and also to the statement of Prof. Toshkhani, PW 157. Mr. S. N. Tikoo has claimed to have reported Sheikh Saheb's speeches. It is common ground that these speeches contain a large portion of Arabic and Persianised Urdu. Mr. Tikoo in his statement recorded on 28-1-60 in the examination-in-chief says :

"Sheikh Mohammed Abdullah mulzim ki taqir Kashmiri zaban men hoti thi. Main uski Kashmiri ka 'mental' translation kar ke Urdu men shorthand leta tha. Long-hand copy taqir ki ham Superintendent Saheb ko dete the."

Reporter's translation—words may slip off :

As the speaker was speaking in Kashmiri the reporter would make instantaneous translation thereof in Urdu and then take it down in shorthand. Now, this is a process in the ordinary course of which many words would slip off. It is not a dictation that speaker gives, but a running speech. Many words will slip off in this translation and taking down of notes. Such slips are bound to affect the sense here and there necessarily. Your

honour will also recollect that he was given a trial in the court to take down Sheikh Saheb's speech. He broke down, and could not keep pace with the speech, whatever reasons he might have given for that.

Again, in my cross-examination of the witness on 30-1-60, he said :

“Basawal jirah mulzim Mirza Mohammed Afzal Beg bayan kiya ki mazhar Arbi nahin janta hai. Farsi thori bahut janta hoon. Parhi nahin hai. Mazhar ne F. A. aur B.A. aur Matric men Farsi nahin liya tha. Third middle men liya tha. Urdu men mazhar ne koi diploma nahin liya hai. Mazhar ne F.A. aur B. A. men Urdu nahin li thi.”

That shows the capacity of this PW's understanding of Persian, Urdu and Arabic. Admittedly Sheikh Saheb in his speeches made profuse use of these languages, of verses from Holy Quran and poems etc. Your honour will, therefore, bear this point in mind, as we approach the speeches.

Next, Prof. Toshkhani's statement. I have in detail described this witness in my examination u/s 342 Cr. P.C., in answer to questions¹ Nos. 118, 119, 120, 121 and 122. I gave my comments about this witness as well as about the contents of Sheikh Saheb's speeches. Reference may kindly be made to that. For brevity's sake I will not go into that. It is admitted that Mr. Toshkhani (so

1. Cyclostyle report of resume of these proceedings available from Legal Defence Committee of Jammu & Kashmir State Office, Delhi Branch.

it is clear from his own statement) is not conversant with Arabic or Persian grammar. He has not studied Persian language and his general knowledge about that literature and Islamic history is, I say with respect, very poor. This is brought home partly from the across-examination of this witness given at page 10, running serial 1849 of the lithograph copy.

‘Basawal jirah Mohiuddin Zargar mulzim bayan kiya..... main ne Iqbal, Hafeez aur doosre shora ka kalam baqaida nahin parha hai..... main ne Urdu shairi ki koi kitab nahin parhi hai..... Main ne Islamic history nahin parhi hai...’

Translator inserted own words :

Your honour may peruse these pages. He has admitted that he has no knowledge of Islamic history and in fact under cross-examination very gross mistakes were exposed. Court will see whether it would be safe to rely on the translation made by this witness. Your honour will remember another fact. This witness has inserted his own words and admitted that inside square brackets he has put in words which the speaker ‘should have said’. Why has he transgressed his limits? He has put words which he thinks the speaker should have used. Thus he was projecting his own mind. We are not concerned whether Sheikh Saheb used correct grammatical language, proper idioms or not. What the court is concerned with is to know exactly what words he used and not what PW Toshkhani would wish Sheikh Saheb to have said. We are interested in Sheikh Saheb’s own words, good, bad or indifferent. Now, here is a witness who says at places, here the speaker should have said this word, or here he has omitted to say this word.

That is not the business of the translator. Thus, he has mutilated the picture to that extent.

Sheikh Saheb's speeches distorted:

After these general observations I come to Sheikh Sahab's speeches as such. Himself, Sheikh Saheb has said that these records of his speeches suffer from distortion due to the reporter's inability to keep pace with him. He has also pointed out that at places passages are disjointed. These are briefly the broad facts which may kindly be kept in view as background when the court approaches to assess Sheikh Saheb's speeches. Also, admittedly the prosecution have not produced before your honour important, I might say key, passages recited by the speaker in Arabic. They would give the central theme. They are not before us.

Prosecution misleads :

In another sub-topic I shall make a few more general observations on points that trickle out from the arguments of the distinguished counsel for prosecution, as the main charges made against Sheikh Saheb in relation to these speeches. What are these charges? They are : One, Sheikh Saheb selected religious places, religious occasions and religious gatherings for his addresses. Prosecution have submitted in the court speeches delivered by Sheikh Saheb at Hazratbal, Jama Masjid and Karala Khud. The question is, did Sheikh Saheb during his release deliver speeches only at these places? It suits the prosecution to pick up these speeches for their own designs and purposes. Sheikh Saheb delivered speeches during his brief span of release in Durgjan.

Lasjan, Basant Bagh, Maisuma, Bat Malu, Karan Nagar, Islamabad, Dayalgam, Doru, Rainawari, Lalitpura, Awantipora, Bejbehara etc. Now, none of these is a Muslim religious place, and at all these places particularly Karala Khud and Rainawari predominantly non-Muslim gatherings were addressed. Prosecution has tried to suppress that fact in order to malign the speaker. Again, they have also accused him of having spoken on religious occasions. Now in all the meetings that I mentioned, which the prosecution suppressed, they were not the religious occasions, they were common-place ordinary days, when Sheikh Saheb addressed public meetings.

Festivals, forum of communal harmony :

It is a matter of common knowledge that even before 9th August when he was the Prime Minister of the State, on every Friday and Muslim festival he will particularly go to Dargah Sharif Hazratbal to offer prayers and address the people. Even before he became the Prime Minister, whenever he was in Srinagar on Friday or on a Muslim festival he will go to the shrine both to offer prayers and to address gatherings. Sometimes during Ramzan and/or on an important festival he will go to Jama Masjid. He would utilise these occasions, these Muslim festivals to make an appeal to human values, dignity of man and the high noble purpose enjoined by God as the goal of this life.

It was through these institutions that Sheikh Saheb successfully preached the gospel of brotherhood of man and secularism. When Congress failed to maintain communal harmony in 1947, in India, it was the result of

these preachings that Kashmir had held her head high. In such places, on such occasions alone, the human mind is most receptive to receive God's gospel. Sheikh Saheb has utilised non-Muslim festivals also, such as Janam Ashtami and celebrated days of Sikh Gurus, to preach brotherhood of man, tolerance and dignity of man. He did not miss to attend these non-Muslim festivals and address gatherings there. It was good enough then because India was happy with him. The self-same thing now becomes a crime for him, because he is no more a persona-grata with the Indian Government. Their counsel here have picked up these 4/5 occasions in order to malign him for having chosen Muslim gatherings, Muslim festivals and Muslim places.

It is height of travesty of truth to infer that he had become communal-minded because he utilised those occasions. We repudiate that charge as baseless and unwarranted by facts.

No hatred but communal amity :

Now, it is also contended by prosecution that through these speeches Sheikh preached communal hatred. A successful answer to that charge would come when I analyse these speeches. At this place I will only say that far from preaching communalism, these speeches teach tolerance and brotherhood of man. Of course he has quoted chapters and verses from Quran and life of Prophet. To take exception to that and to draw conclusions that he is talking too much in Islamic terms, therefore he must be communal, is really the total repudiation of the claim of secularism. At best the prosecution can say Sheikh Saheb quoted from Islamic history, referred

to instances, practice and life of the Prophet and high divine personalities known to Islamic history. They cannot say that it was derogatory to other communities, to other religious leaders, or a reference to Prophet of Islam and other Prophets was intended to belittle the religious leaders and Avatars of other communities. On the contrary, he holds all of them in esteem. To infer from the speeches any communal ill-will will be a very distorted conception of secularism. More frank attitude will be to say that they do not tolerate religious preaching. It is easy to talk of secularism, easy to condemn Sheikh Saheb for having quoted from Islamic history and for having referred to the life of the Prophet, but let them show where was he derogatory to other religions or followers of other religions.

Now, Kashmir is predominantly Muslim and if, therefore, predominant number of persons attending his speeches was of Musalmans, that is in the nature of things, why be furious about that? For the time being they have to tolerate this fact that Kashmir is predominantly Muslim. When there used to be a reception of Pt. Jawaharlal Nehru, there were Muslims there. That was good enough. But when at Hazratbal the attendance in Sheikh Saheb's speeches is predominantly Muslim, it must be distorted to show that he is appealing to Musalman. Distortions and perverse inferences could not go to farther limits than this.

Translations and words are of Reporter's—not Sheikh Abdullah's :

Next allegation is that Sheikh Saheb preached violence.

“Tashaddud aur nafrat ki talqin ki”.

I repudiate that charge and in order to answer that charge I shall have to deal with it, at some length when I come to his speeches. It is quite the other way round. He has preached forbearance and fortitude, he has preached love among Hindus and Muslims. He has, no doubt, been critical about the events of 9th August and there exactly is where the shoe pinches them.

It has been said by the distinguished counsel for prosecution that Sheikh Saheb, as an eloquent speaker, was weaving a web of words, drawing word pictures. Therefore, the speeches are, according to him, most useful evidence to know his mind. Your honour can visualise from these word-pictures, according to the counsel, how his (Sheikh's) mind was working. May submission is that that could be good enough if it were so. But the court will recollect they are not his words. They are Prof. Toshkhani's words, they are Mr. Shivnath Tikoo's words who translated Sheikh Saheb's Kashmiri speeches. Sheikh Saheb's words would be the words which he spoke. That is a fact which might be generally kept in mind.



(B)

Exhibit 269, Speech dated 13th January 1958, on the occasion of Hazrat Siddiq's anniversary at Hazratbal :

I will now come to his speeches, taking them up one by one. Your honour might take ExP. 269 of 13th January :

“Phir kaha, Musalmano, agar tumko meri khidmat ki zarurat hai, aap pehle Musalman banen. Ek momin ki tarah chattan banana chahiye.”

Sir, this is one of the sentences read by the prosecution. No inference of accusation has been drawn by this, and none can be drawn. No doubt on this festival he was addressing the Muslims and he asked them to be “Momin” i. e. men of faith. “Momin” means one who has faith—man of conviction—and “faith” of Muslim is Islam which is the other word for peace. And that is what the speaker enjoins on the audience. Court will take note of the fact that the occasion is Hazrat Siddiq's anniversary. On the following page your honour will kindly read :

“Aaj ke mutabarrak din khalifa-e-awwal Hazrat Abu Bakar Siddiq ki wafat ka din hai. Kash, ham Musal-

manon ki nigah hoti taki ham unko pehchan sakte jo Islam ke baanion men shumar kiya jata hai. Agar hamen apne bazurgon ke aamalon par, ahkamon par nazar hoti, yaqinan aksariyat Musalmanon ki rah-e-mustaqim par qaim hoti, unka kirdar mustahkam rehta. Agar hamen unki paak zindgi par aboor hota, magar ham yeh cheez karna apne waqat ko zaya karne ke barabar samajhte hain, magar jo qaum apne bazurgon ki zindigi ke halat ka jaeza nahin leti hai woh taraqqi nahin kar sakti”.

That a nation which does not follow in the footsteps of its leaders “woh ghalti karti hai.”

“Ek qaum ki taraqqi ke liye zaroori hai ki woh apne bazurgon ki zindagi ka achhi tarah jaeza le taki agar ham se koi ghalti ho to ham use thik kar saken. Woh pehle bazurg the jinhon ne Rasoolallah ki zat par iman laya. Unhon ne unki himayat ki. Jab Rasoolallah ko hijrat karni pari to us Hazrat Abu Bakar Siddiq ne unka sath diya. Hazrat Abubakar Siddiq ki position itni unchi hai ki unhon ne 20 sal Hazrat Mohammed ke sath guzare. Jis waqt unki wafat hui to logon ne is bat se ittefaq kiya ki woh pehle khalifa muquarrar kiye jayen. Unhi ki wafat ka aaj din hai ki is pak din par hamara ijtama hua. Jis waqt unko khilafat ka masnad ata hua to unko bahut mushkilat ka samna karna para kiyonki bahut shakhson ne nabuwat ka dawa kiya tha. Aise log jadoogari karne lage. Yeh aaj ke dinon hi nahin hua karta hai purane waqton men bhi aisa hua karta tha. Unhon ne logon ko yih batane ki koshish ki ki ham hi paighambar hain, unhon ne nisf mulk khane ki koshish ki magar aaj ke Muslema Kazzab salim khane ki koshish karte

hain, unko nisf khane se pet nahin aati hai, woh sab kuch apne ghar lena chahte hain. Mere kehne ka matlab yih hai ki aise anasir aur insan us waqt bhi maujood the. Bahut se qabilon ne zakat dene se inkar kiya. Aaj Musalman qaum ke jo pehle khalifa the aaj unhi ka din hai. Unki zindagi se aap sare waqif hain. Unke khilaf jo the unhon ne zakat dena band kiya, unhon ne "shal tarak" dikhane shuru kiye, bazigari ki chalen dikhane ki koshish ki. Mulk Arab ke janoobi hissa Yemen par ek aadmi ne qabza kiya. Mukhtalif qabilon ne mukhtalif hisson par qabza kiya. Jo us waqt jhoote dawa dene wale paighambar the unhone mukhtalif dawe diye. Rehman ke sath shaitan bhi hote hain kiyonki jahan par Khuda ke bande hote hain shaitan ka kam unko apne raste se talne ka hai. Yih sab kuch Quran Majeed me darj hai. Ek Musalman ki ankhen hain, magar woh dekh nahin sakta. Agar hamen yih maloom hota Islam kiya hai to hamen koi tal nahin sakta. Is Quran me janam se marne tak hidayat maujood hain."

Intentions—grief not anger :

Aap sochte honge ki main $4\frac{1}{2}$ sal jail me kiya karta tha ? Bat is tarah hai ki agar dushman tir chalaye to koi khas bat nahin thi magar mere dil men ranj nahin magar 'depression' zarur hota tha kyon ki us waqt dushman ne tir nahin chalayе, aaj unhone tir chalayе jo main ne khud pale the, aaj unki taraf se mujh par tir barse. Unki taraf se yih tir barse jo yih kehta tha ki Musalman ke panch Iman hain magar mera chhata iman Sher-e-Kashmir Sheikh Mohammed

Abdullah ki aqidat hai. Aise hi dost the jinhon ne mujh par tir barsaya isliye yaqini tha ki main gham ke darya me doob jata. Main Khuda ko hazir-o-nazir rakh kar kehta hun ki woh log jinhon ne mujh par tir barsaye kash woh mere dil ko tatolte ki mere dil men unke liye kiya khayal tha jin ko aage peechhe main dekhta tha, unhon ne hi mujh par tir barsaye. Is bat se agar mujhe gham hai to koi bari bat nahin. Dost ke phool dushman ke tiron se bhi barhkar hote hain. Sirf yahi nahin jinki taraf mera ishara hai, Pandit Jawaharlal Nehru ki taraf bhi mera yahi khayal hai. Ham ne angrezon ke waqt mushtarka larai lari thi, ham ne mushtarka mahaz par ikathhe jung lari thi. Haqiqat yih hai ki mere taluqat unke sath bahut gehre hain. Main unke khandan ka fard samjha jata tha. Mera khayal bhi yahi tha. Agar mujhe Pandit Jawaharlal ke liye koi bhi qurbani deni pare uske liye bhi main tayyar tha. Yih bhi yad rakhna chahiye ki jab main unke pas musibat ke waqt gaya unhon ne meri imdad ki, meri himayat ki, mere liye jail bardasht kiya, magar 9 August ko unke naqsh-o-qadam par kis tarah Kashmir men khoonrezi hui yih bhi yad rahe ki yih tamam ek ajeeb soorat hai. Yih zindagi ke warq main in $4\frac{1}{2}$ sal jail me ulatata tha aur agar is sari halat men kisi cheez ne mujhe himmat di woh sirf Quran Majeed ka mutala tha."

Now, Sir, look at this passage. Mr. Pathak has told you that Sheikh Saheb was full of venom, full of bitterness and full of hatred. I say that spite and hatred must be made of a different stuff. This is the very first speech delivered on 13th January, i. e. 5 days after his release. This is the very first proof of the speaker's intentions.

And before man and God we ask for the judgment, is the mind of the speaker full of venom? He might be grief-stricken and sorrow-stricken; but it is height of perversity to call that this indicates mind full of venom and bitterness.

Speaker pacifies audience :

I am ready to meet that challenge. In the first passage Sheikh Saheb has said that :

“Rehmani taqaten bhi hain aur shaitani taqaten bhi hain.”

He has appealed to history and told his listeners that it is not a peculiar thing now that you come across these conflicting forces of good and bad these days. It was there from eternity. He pacifies their feelings by saying that it is something inevitable in the history of mankind; even in the time of Holy Prophet of Islam there used to be such conflicting forces of good and bad, of right and wrong.

Now if you put that picture before people and tell the Muslim gathering that even in the blessed days of the Prophet of Islam such forces were there, any heat of tense feelings will be subdued. If you were to tell them that this misfortune of woe has befallen on you alone, the speaker will be working up the tempers. He says, no, it is common-place history and nothing unusual. It has happened in the days of Prophet of Islam, it has happened since eternity.

And what more does he say ? He asks his audience that they may be surprised on what he had been doing for all these 4½ years of incarceration. Then he says, "I did have feelings of depression". Word 'depression' is used by the reporter. "Dil men ranj nahin". He repudiates that there was any anger in his mind. No bitterness, no venom but depression there was. Why ? He says because "I was not hit below the belt by an enemy this time. I was not stabbed by an enemy, a foe. No, but by a friend". And that gives him a feeling of depression only. "By him whom I had brought up, he shot arrows at me, he who said that Sheikh Abdullah's loyalty was 6th article of faith," like Muslims' faith in the day of Judgment, like faith in the Prophet of Islam. Now, Sir, if you liken your feelings of loyalty to a political leader to your faith in the Prophet of Islam, Mohammad, in the Unity of God, you can yourself understand the feelings. The speaker grieves about that and grieves in what terms ? It was inevitable. What ? He says "I was drowned in grief". Again, kindly note, no anger, no venom. I was stabbed by my own friends whose faith and loyalty in me was the article of faith with them. Sheikh Sahab seems to say with Shakespeare : "Et tu Brute ; for judge ye gods, Brutus was Ceaser's angel, "When Brutus pulled his cursed steel away, Ceaser turned round to know if Brutus had so unkindly cut or no....."

How appropriate ! Far from being swayed, the Sheikh says : "Main gham ki darya men doob gaya".

Now, Sir, I appeal to any rational human being to tell me if this can mean "venom". When we refer to an

individual 'Main ne usko pala posa' it can never indicate bitterness. We say this to younger brother, to son and not to an enemy. To distort these words and say that these words mean venom and anger is nothing short of untruth.

“Is baat se agar mujhe gham hai to koi bari baat nahin. Dost ke phool dushman ke teeron se bhi barhkar hote hain.”

Does not associate Nehru with 9th August 1953 episode :

Then he talks about Pt. Jawaharlal Nehru in the same tone. He recollects his favours and kindness shown to him and recollects that with injured affection. Does this show anger and venom ? All of us are human, perhaps have had similar experiences ; when you recollect past associations with your comrades-in-arms after misfortune has torn you asunder from them and you remember the happy memories of association and comradeship, you cannot but grieve on that. Bitterness has no room there. And he talks about Pt. Jawaharlal Nehru in the same sense and spirit. Then he says for all this my only remedy was that I reverted to the Holy Book of God and I found solace there because those who read Quran, those who know its philosophy, they know that in worst misfortunes, in worst calamities it teaches forbearance and faith in the Almighty, which gives the depressed soul strength to stand up to this. He says there I found solace. To say, with any stretch of imagination that such a mind could have even the remotest feeling of anger, bitterness or venom, is the worst distortion of any fact. You

will kindly note one more fact which I have read and which the prosecution have also emphasised.

“Magar 9 August ko unke naqash-o-qadam par kis tarah Kashmir men khoonrezi hui. Yih bhi yaad rahe ki yih tamam ek ajib surat hai.”

He says that with Panditji being there (who had suffered for Kashmiri people), I am wonder-struck how the 9th August tragedy happened. He expresses his surprise, that is, he does not associate Pt. Jawaharlal Nehru with the happenings of 9th August. “But still this was the period of grief to me and I reverted to the Holy Book of God where I found peace.”

9th August reference—expression of surprise :

Sir, it is again distortion to impute that Sheikh Saheb, in order to rouse the minds of the people, recalls the bloodshed of 9th August, as alleged by the prosecution. It is not in that context that Sheikh Saheb said it. From the very context that allegation is completely refuted.

“Mere liye jail bardasht kiya, magar 9 August ko unke naqash-o-qadam par kis tarah Kashmir men khoonrezi hui. Yih bhi yaad rahe ki yih tamam ek ajib surat hai.”

According to the context, the reference to 9th August happenings is to express his extreme surprise. He says I

am surprised. I cannot associate the happenings with Panditji. It is certainly not exciting people. Surprise is something totally different from intention to incite people or provoke them.

Historic facts, not sedition :

Now another, passage in the speech :

“Jo admi sachai ki awaz buland rakhe, woh kis himmat aur bahaduri se kam karta hai. Hazrat Mohammed ne jis waqt tauheed ka jhanda buland kiya to tarah tarah ki taklifon ke bawajood bhi woh apna qadam aage barhata tha. Aap unke takaleef ka andaza nahin kar sakte. Un tamam takaleef ke bawajood unhon ne saaf elan kiya main kisi surat men sachai ke raste se peeche qadam nahin hataoonga.”

Now, it is Hazrat Siddiq's day and the speaker is talking of steadfast adherence to truth. Sir, if you ban such teachings you might ban the activities of any reformer in the world. Even Gandhiji's preaching would be an offence of treason then. Again,

“Unhon ne logon ko yih batane ki koshish ki ki ham hi paighambar hain. Unhon ne nisf mulk khane ki koshish ki magar aaj ke Muslema Kazzab salim khane ki koshish karte hain. Unko nisf khane se pet nahin ati hai. Woh sab kuchh apne ghar lena chahte hain. Mere kehne ka matlab yih hai ki aise anasir aur insan us waqt bhi maujood the. Bahut se qabilon ne zakat dene se inkar kiya. Aaj Musalman qaum ke jo pehle khalifa the aaj unhi ka din hai. Unki zindagi se

aap sare waqif hain. Unke khilaf jo the unhon ne zakat dena band kiya."

Now, he refers to the historical facts ; there were, in past, forces which tried to way-lay people from righteous path. That is history. Why should anyone be nervous about that ? Now, Sheikh Saheb is talking about Islamic history.

Criticism of obscenity—no treason :

"Udhar se doosri taraf chand jadoogar apni chalne chalne lage, jis tarah aaj ke jadoogar karte hain. Nachne wale laye gaye, circus wale laye gaye, pehlanwan laye gaye, Kashmir festival men jahan kahin ghair shariat ki baten thin woh tamam baten ki gaeen. Schoolon ki larkiyon ke zariye drame kiye gaye, mukhtalif qism ki kharabian ki gaeen. Barabar us tarah jis tarah 1400 saal pehle Arab men kiya gaya."

Now, Sir, whatever Sheikh Saheb might have said, I cannot vouchsafe for the words. I only go by this record. He says that these days 'nachne wale laye gaye.' Who does not know this fact ? Even the other day in Jammu they had officially to condemn and close down certain practices in hotels where girls were made to dance—'naked dances' as they were called. And if a public worker of Sheikh Saheb's stature tells you the same thing, why should that be treason ? Even University Grants Commission in India wrote very condemnatory reports about the festivals and recommended that they should be stopped forthwith. They were accordingly stopped. There has been poster campaign and press campaign against these activities in Srinagar and Jammu. All that is permissible, but

if it comes from Sheikh Saheb, it becomes treason. What authorities have themselves done and stopped as something against our culture, decency and morality, if we also express exactly the same view, we are prosecuted for an attempt to spread hatred against government.

Exposure of lack of freedom of speech—no treason :

Sir, it is a very strange thing. Your honour will remember in 1956 Supreme Court case¹, most condemnatory words about the Chief Minister and a minister were held not to come within the mischief of law. Here Sheikh Saheb is being tried for an offence of treason for having said :

1. On 23rd March, 1954, members of the Amritsar District Motor Union took out a procession to protest against the policy of the Punjab government to nationalise motor transport. The members reached near Prabhat Studio. The appellants raised slogans "Jaggu mama hai hai (Jaggu maternal uncle be dead)" and "Khachar Khota hai hai (mule-cum-donkey be dead)". The first slogan was alleged to have been directed against the Hon'ble Shri Jagat Narain, the then Transport Minister, Punjab State, and the second slogan against the Hon'ble Shri Bhim Sen Sachar, the then Chief Minister, Punjab State. The uttering of these slogans was considered objectionable; and the appellants were charged in the court of Magistrate, First Class, Amritsar. The Magistrate committed them under Section 9 of the Security of the State Act. After various stages of appeals, the case came up for hearing in the Supreme Court, which is known as Criminal Appeal No. 49 of 1955. Kartar Singh and others,

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“Nachne wale laye gaye, circus wale laye gaye, pehalwan lay gaye. Kashmir festival men jahan kahin ghair shariat ki baten thin woh tamam ki gaeen. Schoolon ki larkiyon ke zariye drame kiye gaye.”

That is the freedom of expression Kashmir is enjoying! You may not agree with one who condemns mixing of young men and girls, who objects to dancing and all that. You may call him not very civilised, according to

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appellants versus State of Punjab, Respondents. From the judgment of the Court, the following para has been referred to by Beg Saheb.

“These slogans were certainly defamatory of the Transport Minister and the Chief Minister of the Punjab Government but the redress of that grievance was personal to these individuals and the State authorities could not take the cudgels on their behalf by having recourse to section 9 of the Act unless and until the defamation of these individuals was prejudicial to the security of the State or the maintenance of public order.

“So far as these individuals were concerned, they did not take any notice of these vulgar abuses and appeared to have considered the whole thing as beneath their notice. Their conduct in this behalf was consistent with the best traditions of democracy. “Those who fill a public position must not be too thin skinned in reference to comments made upon them. It would often happen that observations would be made upon public men which they know from the bottom of their hearts were undeserved and unjust ; yet they must bear with them and

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your standards. You may call him not very much Europeanised, you may call him not very progressive but you cannot condemn him as a traitor. He has a right to advocate his view, if there is any freedom of speech. But, even men of high position, seem to feel that these freedoms are not meant for J & K State. Beyond Pathankot one can say "Jagoo Mama Hai Hai", one can say "Khachar Khota Hai Hai", * but as soon as they step in the State they say you cannot utter a word suspected to be critical of administration. They will run for treason.

In the present instance who is the victim of the government wrath? Not an ordinary individual, but ex-Prime Minister, once the President of All-India States People's Conference and successor to Jawaharlal Nehru. He only says that this frequent mixing of males and females is against my Shariat. For that you are trying him for treason. Why? Because you say he refers to something patronised by State government which is backed by India and which was helped into office by Indian government on 9th August. Therefore hatred against this government is hatred against the Government of India. We cannot even breathe a word about it.

*Supreme Court 1956 case see pages 19-20 of this book.

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submit to be misunderstood for a time" (Per Cockburn. C. J. in 'Seymour v. Butterworth', (1962) 3 F & F, 372 (376, 377) (A) and see the dicta of the judges in 'R v. Sir R. Carden', (1879) 5 QBD 1 (B). "Whoever fills a public position renders himself open thereto. He must accept an attack as a necessary, though unpleasant appendage to his office". (Per Bramwell B., in Kelley v. Sherlock', (1866) 1 QB. 686 (689) (C). Public men in

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Who denies freedom ? You or we ? You deny it. You rob us of the right of innocent criticism. Who subverts the Constitution—you or we ?

Call to shun temptations—no treason :

Then Sir,

“Schoolon ki larkiyon ke zariye drame kiye gaye, mukhtalif qism ki kharabian ki gaeen.”

The speaker is advocating his views, which he has a right to do.

“Mukhtalif qabile ek taraf hue aur mukhtalif qabile doosri taraf hue. Is tarah bahut se Musalman jadogar ki khelen dekhne gaye joki sarasar Islam aur shariat ke khilaf the”.

He says that in olden times mundane temptations and attractions led many astray and many people went off their rails. He says that is the history since ages.

“In baton se mujhe ranj nahin hua. Yih cheezen purane waqaton se barabar chalti aai hain. Musalman ke Musalman libas lagane aur dikhane ki namaz se momin nahin ban sakta. Jo Musalman ka dawa karta hai, jo tauheed ka dawa karta hai, unki Khuda tala mukhtalif aazmaish karta hai. Agar woh in aazmaishon men kamyab ho jayen tab woh Musalman keh lane ke qabil hain. Musalman woh hai jo museebat ke waqat apne usoolon par qaim rahe. In 4½ saalon men aapko bahut sari museebaton ka samna karna para, mukhtalif aazmaishon se do-char hona para.

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such positions may as well think it worth their while to ignore such vulgar criticisms and abuses hurled against

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kamron ke andar baith kar bhi aapka jan-o-maal meh-fooz nahin tha. Aap dekhte hain ki ek waqat jo kuchh hamne jama kiya tha woh unhon ne sara khatam kiya. Woh dost kehte hain ki main aapko aaloo khane ko kehta tha, aap jitna chaho chawal kha sakte ho. Woh dost kehte hain ki main kehta tha ki bachche kam paida karo, magar main aap se kehta hoon ki agar aap ne izzat aur aabroo ki zindgi basar karni hai to aapko chahiye ki ek bulbul ki surat ikhtiyar karen jo ki pinjre men band hai, jo kehta hai ki azadi ki ret pinjre ki kisi anaaj se behtar hai. Agar aap izzat aur aabroo ki zindgi basar karna chahte hain to aapko aadhi roti par iktafa karni chahiye."

You cannot become a 'momin' or Muslim merely by dressing as a Muslim. 'Tauheed' means 'wahdat'—oneness of God. Those who believe in God, God puts them under many trials and tests. If they come out from those trials with unshaken faith then they deserve to be called Muslims. If I am a Muslim, I must suffer privations and hardships patiently, that is "azmaish". I must not deviate from the right path in spite of troubles and tribulations. If I successfully suffer without being tempted to accept relief through evil ways and means, then I am a true Musalman.

Why dual Standards ?

The speaker then says : "Even in your homes you were not safe". I will produce files of papers not friendly to us like 'Martand', which have been shouting and protesting that their honour is not safe in the hands of Peace

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them rather than give an importance to the same by prosecuting the persons responsible for the same."

(AIR, 1956, pp 543-544 Supreme Court.)

Brigade and Police in this country. I shall produce files of 'Martand' saying that honour of their girls is not safe. They cannot safely go to schools and that their lady patients in hospitals are not safe. Similarly other papers must have written this fact that honour of ladies is not safe, property is not safe and people are not safe. But they are allowed to say so and Sheikh Saheb must be condemned if he utters a word about it. You practise the worst type of communalism.

**Call for economy, self-sufficiency, and austerity
treason in Kashmir only !**

Sheikh Saheb then refers to the past when there was food scarcity and he enforced austerity and economy, as India did. He refers to past days. Is it treason to say "produce less children" ?

As Food Minister, I used to go to the conferences of food ministers in India. I remember many meetings addressed by Jawaharlal Nehru appealing to us, the food ministers, to ask our people to gird up their loins to be content with half a bread rather than ask for food from foreign countries. He held the view then that a single grain of food brought from outside may bring a ton of foreign politics. That is a hard fact.

In this part of his speech, Sheikh Saheb refers to family-planning. He echoes the views of Pt. Jawaharlal Nehru. He says that his friends condemn him for having said these things. He appeals that if you want to preserve your freedom, eat less and don't borrow from outside, because India is in deficit and is herself importing food from outside. If I preach cut your coat according to your cloth, what is treasonable in that ? I can tell

the people that they should live within their own means. This continued dependence cannot go on for long. It will economically kill you and in course of time economic freedom will be absolutely gone.

There are provisions in the Constitution which in case of financial crisis authorise the President to suspend the Constitution and take over the administration. You lose democracy. The present policies will lead J & K State to that end one day.

Secondly, India herself has to import food.

If India continuously goes on depending for food on foreign sources, its freedom is in gravest peril, and that is the view Sheikh Saheb has advocated; and if Mr. Pathak thinks that such talk is treason in Kashmir and patriotism beyond Pathankot, then that exposes their claim that there is freedom in Kashmir. Again this is discrimination of outlook.

It is loyalty if in Travancore-Cochin, Madras and Uttar Pradesh you ask people to observe austerity and economy, but if you say that in Kashmir you run the risk of being tried for treason. What a joke! Is that freedom and democracy that they claim to have given to Kashmir?

(After Recess)

Breath of democracy upto Pathankot only !

Sir, Mr. Pathak, has tried to make out that State had made considerable progress and that Sheikh Saheb was belittling it. Apart from my objection that even such alleged criticism will not support charge of treason, I contend that if Shri Rajagopalachari says that we have

made no progress and Panditji holds the opposite view, Shri Vinobaji sometimes says that we have gone down rather than forward; all this criticism is considered as life breath of democracy beyond Pathankot, of course.

Cheapness due to subsidy—no prosperity :

In Kashmir, cheap food is being subsidized to the tune of 1½ or 2 crores of rupees by the Indian Exchequer. Is that progress? The claim of progress is completely hollow. Secondly, if food were really cheap, why divergent differences in the food price at which imported foodgrains are being sold in Jammu and in Kashmir? Why this discrimination, if according to prosecution counsel, the State has prospered and there is cheap food? He had better be careful and listen to the very realistic comments given by Pt. Dogra, President of the Praja Parishad. The State has not prospered, it has gone into the fetters of indebtedness. This dual food policy is followed because in Kashmir they want to catch votes by cheap food and in Jammu they feel surer about the Hindu vote.

Suggestion about cultural programme—not anti-Indian :

Sheikh Saheb has said that these cultural shows and dances and free mixing of sexes is against the Shariat. He has asked that they should be banned. Any way this is not anti-Indian. He is expressing his views which can be considered as great help to India to assist in stopping these activities which are effacing the culture of the State.

Criticism of opportunism—no treason :

“Quran Majid farmata hai ki apne waqaton men Shali me aur zara'at men kami hogi, goya har ek cheez men kami hogi. Koi jagah aisi nahin jahan goli nahin chali, yih dushman ke hath se nahin balki dostion ke haathon se chali, un logon par jo kehte the Bakshi Zindabad, Sadiq Zindabad. Wohi lcg unki golion ka shikar hue”.

These observations are made in a spirit of a grouse to a friend, referring to him as a friend and reminds him that people who were victims of this firing were the same persons who had said “Bakshi Saheb Zindabad and Sadiq Saheb Zindabad”, thus reminding them of their comradeship. You do not have to remind an enemy of comradeship, bringing back to their minds that they are the same people who shouted “Zindabad Bakshi”. Why bear enmity towards them ?

“Us waqat jab ki unke samne har qism ke lalach the, bahut se un lalchon ka taab na la kar un men phans gaye. Agar unko Quran Majid par yaqin hota woh un lalchon men nahin phanste”.

It is open to a political worker to say that anybody can get back to ministership if he gives up his stand. Now, Gandhiji's followers who suffered privations, jail, externment and imprisonment, stayed steadfast by him because Gandhiji thought that his stand was right. Similarly, it is open to an individual to say that public pressure peacefully brought on government of India will

make it honour her pledge of plebiscite. Therefore suffer patiently. Is it treason to say that ? It is no offence.

Abdul Ghani Goni got an office with the Ruling Party when he resigned from our organisation. He was derailed. He might have, in the opinion of the government, proved himself a very great patriot.

But, I think, an honest service to India is to persuade her to honour the pledge and stand by the pledge of plebiscite given to the people of Kashmir. Now, is it justice to convict us for treason because we take that attitude ? Sheikh Saheb, if he said these words, is perfectly justified in saying that many people were derailed by temptations. In due course, some Assembly member might come here and admit that temptations, inducements, threats and promises were given to them, and their votes on accession were thus secured.

Truth will prevail

Sheikh Saheb says :

“Bahut se un lalchon ka taab na la kar un men phans gaye. Agar unko Quran Majid par yaqin hota to woh un lalchon men nahin phanste. Gharib aur misken logon nen un sab museebaton ka samna kiya. Unhon ne apna iman sabit kiya. Jin qaumon ne museebaton ko bardasht kiya wohi Khuda tala ke bande hain. Mujhe yaqin hai Khuda tala akhir men sachai ki fateh karega’

People were bribed, but he says 'truth will succeed'. Can you penalise the speaker for saying that ? Gandhiji has thousands of times said that truth will prevail, all the followers of Gandhiji today repeat it. Vinobaji says 'truth shall prevail'. But when Sheikh Saheb says the same thing, you accuse him of saying that he is personifying himself with truth ! It is a motto hung in Government of India Assembly Hall that "Truth Shall Prevail". Now, can you say that Government of India is thereby personifying itself with truth and all others with falsehood ? That would be a torture of words. But that is the crux of prosecution argument.

Mr. Panday : I wonder if Mr. Pathak clarified in that way.

Mr. Beg : He said that Sheikh Saheb personified himself with truth.

There is no reason to be angry with us now. I well remember that prosecution accused Sheikh Saheb to have personified himself with truth and his opponents with falsehood. Mr. Pathak's comment that Sheikh Saheb personified himself with truth was reference to these expressions.

9th August 1953 projects weaknesses :

Sheikh Saheb goes on :

"9 August ke din Musalmanon ke liye rehmat ka din tha kiyon ki us din se ham ne apni kamzorian meheos keen."

That is 9th August was a blessing in disguise because on that day a rude shock gave us the realisation of our weaknesses. We realised what those friends were capable of, who, till the other day swore, that loyalty to Sheikh was their sixth article of faith. We realised on that day that in the presence of Pt. Jawaharlal Nehru democracy in Kashmir could be murdered in a cold-blooded manner. We realised above all, that Sadar-i-Riyasat, without any powers, could dismiss a government in the name of democracy, in the name of the people. Why ? Because he thought Kashmiri nation is weak and poor and they can be ruled by police. We realised on that day that Constitution could, by Sadar-i-Riyasat's one stroke of pen, be wiped out without any qualms—Sadar-i-Riyasat who took oath of his office that he will uphold the dignity of Constitution, subverted the very Constitution. We realised forthwith our weaknesses that behind all this was the feeling that the Kashmiris can be silenced with bullets. Their unity can be broken and the organisation which had fought the freedom battle for 20 years can be smashed and disrupted.

Sir, just a digression. Mr. Mubarak Shah has taken out the passage from Mr. Pathak's arguments which was taken exception to. He said on 24-4-61 : "Sir, there is one pattern and one scheme in all the speeches. Forces of truth were arraigned against forces of falsehood. According to him the conflict between him and the government was conflict between truth and falsehood."

This is one passage Sir. "The intention was to create hatred in the minds of the people against the government by personifying himself with truth and the government with untruth".

This was on 24th April. To continue the theme,

Sheikh Saheb appeals that we must rectify our weaknesses. Another weakness was falling to the worldly temptations of getting money and bribes from the government and those who staged 9th August coup.

‘Bahut sare dost yih kahte hain ki jo nek pak admi hain woh musibat men phans jate hain. Jo bad-niyat hote hain unko duniya ke sare cheez hasil hote hain magar main aap se kehta hoon ki neki ka phal nek hai aur badi ka phal badi. Yahan par kuchh aise dost honge jo khalal dalna chahte hain. Agar woh nahin sunana chahte hain, na sunen. Bahar hal agar Khuda tala ki marzi hogi, mukhtalif baton ki main tashrih karoonga. Mujhe yaqin hai ki agar Musalman Quran Majid par istaqamat karenge to kisi musibat men nahin phansenge. Agar qaum men kirdar walon ki jama’at kam hi ho, woh bhi kamyabi hasil kar sakte hain.’

Now he warns people that it is a wrong notion that one who does evil gets reward and benefits of worldly life and one who does good is deprived of good thing in life. This is a perverted notion and Sheikh Saheb warns people against it. He says evil will get evil results and good will earn good results. Will prosecution object to that even ?

Historical analysis—no legal offence :

Further on, the paragraph begins :

‘‘Mere Pandit Jawahar Lal ke sath ta’aluqat hain. Main Hindustan ka na-shukar guzar nahin hoon. Main ne us waqat Hindustan se imdad mangi. Unhon ne kaha ki yih ham madad de sakte hain magar sharat yih hai ki haqiqi ilhaq tabhi ho sakta

hai jab aman ho. Aman ki surat men ilhaq hoga. Phir yih mamla Security Council men pesh hua. Pt. Nehru ne bahut se taqirir kiye, kaha ki Kashmir ka akhiri faisla Kashmiri hi kar sakte hain. Hakumat-i-Hind ne bhi waqat waqat par yih dawa kiya ki Kashmiri hi Kashmir ke mustqabil ka faisla kar sakte hain. Wohi 'athwas' hamara Hindustan ke halat behtar hone par yahan ke logon se rai li jayegi. Security Council men sawal paida hote gaye. Hindustan chahta hai ki Kashmir unko mile, Pakistan chahta hai Kashmir unko mile. Akhir yih amar tai hua. Donon mulk is faisle par pahunche ki wahan ke log mutfiqqa taur par yih faisla kar sakte hain. Jab jab main ne Pandit Nehru se qatai ilhaq ke bare men kaha to woh naraz hote the aur kehte the ki aisa karne se duniya ki nazron men gir jaoonga magar halat ahista ahista tabdil hue. Hindustan ne ahista ahista yih khayal kiya ki ham "allam, gallam, nallam" karen. Jo wala ham ne bar bar aap se kiya tha ki buniadi taqat aapke haath men hai, ham kis tarah us se peechhe reh sakte hain."

Your honour may pause here. Sheikh Saheb recollects friendly relations with India and intimately friendly relations with Pandit Jawaharlal Nehru. He admits with gratitude the help that India and Panditji gave. But he says that the dispute about Kashmir was there.

On the one hand India claimed it and on the other Pakistan claimed it. Finally the matter went to the Security Council and India repeatedly said that it is the people of Kashmir who alone can decide their future. Now, Sir, to remind India of this promise, even to mention it, is advanced as evidence of treason against us ! And thereby hangs a tale.

It is for this, our insistence on early decision of Kashmir dispute that they are prosecuting us for treason. I shall in due time show that since as public men we have to remind Indian Government to go by her pledges, this act was considered by it as anti-Indian. Hence this case and widespread persecution.

No doubt it is a clash of views, we hold to our stand that people are arbiters of their fate. We refuse to be coerced by force and to give up our ideals. But in all this where is the idea of harbouring treasonous ideas or intention to overthrow the State Government, intention to annex the State with Pakistan? Where does that follow from? Is this giving us much trumpeted fundamental rights and freedom of speech? There is absolutely nothing objectionable from the legal point of view in Sheikh Saheb's speech. It is a narration of history, 100 per cent justified. It is fact.

Once Sheikh Saheb told Pt. Nehru that is there any other way of settling the Kashmir dispute and when a minister who was present in the meeting said that another way was through Constituent Assembly, Pandit Nehru ran into a rage and said that people who suggest that want to bring shame and disgrace to India. He said, "I have given a pledged, word, on behalf of India that plebiscite alone can decide the final disposal of the State." He was extremely angry and I think that Sheikh Saheb had that in mind when he refers to :

"Jab main ne Pandit Nehru se qatai ilhaq ke bare men kaha to woh naraz hote the aur kehte the ki aisa karne se duniya ki nazron men gir jaoonga."

And today we remind him of that promise. Even for reminding of his pledges we are prosecuted and we are told that we have freedom of conscience and fundamental rights !

We are being told that we are a prosperous people and a happy people, but this is our State and our condition.

Real power—the people :

Even so, can prosperity be a substitute for self-determination ? Now both Panditji and Sheikh Saheb tell people that you are the real power. Sheikh Saheb is reminding them : “How can I change the views ? Since 1931 I have dedicated my life to the ideal that you are the arbiters of your fate. How can I change ? One who looks not to here but to hereafter also, one who has faith in the Day of Judgment, who believes that doing of good deeds and misdeeds will be weighed and his whole life will be recounted, how can he betray his people ?”, asks Sheikh Saheb. “I stand where I stand”. He means to say that I stand by you.

In this passage the speaker has reminded India Government about past history. How can this amount to hatred against India ? He tells people “I am by your side and I will not let you down. I have not changed and I will not change.” He is referring to the historical facts of the Kashmir dispute. Is that treason ? It is fantastic to interpret the speech as calculated to incite people to lawlessness.

Advice to children :

Now, another passage is :

“Agar Papa mar jaye to phir tum kis ko kehte? Usne kaha Khuda se. Phir main ne kaha to behtar hai jao Khuda se maango. Agar aap ko Khuda tala par yaqin kamil hai to aapko koi pareshani nahin aati. Jo rasta main ne qabool kiya us men main ne musibaton ka samna zarur karna tha, is men akhir men hamari kamyabi yaqini hai. Jis tarah Hazrat Imam Hussain ne maidan-e-Karbala men her qisam ki musibat bardasht ki magar sachai ki alam haath se na chhori. Main ne Khuda ka shukriya kiya aur uska daman pakra, sachai ka saath diya, batil ka saath na diya. Main ne koi aisi surat qabool na ki jis se yahan ke logon ko apna marzi ka haq hasil na ho. Jin logon ko bandooqon par, fauj par, rupiyon par bharosa hai, woh kisi cheez ko tah-o-bala nahin kar sakte, aur doosri taraf ek aisa admi hota hai jisko tamam duniya ki fauj, tamam duniya ki daulat, tamam duniya ki taraf, hech ke barabar nazar aate hain kiyonki woh Khuda par bharosa karta hai. Surat siraf yih hai ki aapko Khuda tala par bharosa hona chahiye, aapko Khuda tala par yaqin hona chahiye, wohi behterin madadgar hai. Jis ko is baat par yaqin hai woh haq ka daman kabhi nahin chhoor sakta. Main ne kaha ki woh baat mujh par lazim nahin hai jo Khuda tala ke kehne ke khilaf ho. Main ne jail qabool kiya magar sachai ka daman na chhora.”

Kindly pause here for a moment.

Sheikh Saheb says that at one time in 1953 his children came to him and said that they had no shelter even to live under, they had nothing to eat, they were thrown on the road

after his arrest. His children, weeping and wailing round him, said where they will go and what they will do? He told them that assuming that he were dead, what they will do then? 'Depend on God, His mercy and His protection'.

Now, Sir, he is describing his own tale to his children. Does it amount to spreading hatred against the Government? Does it excite feelings against anybody? Does it excite the people to use force against the Government or does it tell them to annex the State with Pakistan? If a father tells his children: Depend on God if you have no home to live in, depend on God if you have no bread to eat in the evening, does it mean that he is indirectly telling them to annex the State to Pakistan?

Mr. Panday : Mr. Pathak never said that.

Mr. Beg : What else is your case?

Mr. Pathak has appealed to you to take an overall picture and I am presenting various passages, not only passages but long long portions, and whole speeches, that make up that overall picture. If you ignore these passages, you cannot have the correct picture. I am at liberty to say that the speeches do not give the remotest indication of the ingredients of the offence of Sec. 121-A.

Mr. Panday : That is all right. You can say that.

Reference to Karbala's Shaheed-e-Azam—no treason :

Mr. Beg : Now, Sir in this context look at the tragedy of Karbala that Sheikh Saheb has referred to. He is telling his children to depend on God. In this context he mentioned the tragedy of Karbala. What is the tragedy-

of Karbala ? The grandson of the Prophet of Islam is invited by Yazid who rules a part of the country and tells him that we will settle all the disputes. People in that part of the country send invitation to him. And against the advice of his friends, well-wishers and statesmen, Hussain, grand-son of the Prophet, puts faith in the people who invited him. He goes there. And who are his companions who go with him ? Minor children, babies and ladies. Friends and family members hardly numbering 72. They have no armour or proper weapons of war because they do not go with the intention to fight.

Now, when they reached a certain stage in the journey, they are trapped. 10,000 warriors armed to teeth are sent by Yazid and they throw the gauntlet to Hussain. He is informed of Yazid's command to behead Hussain who pleads that he had come on their invitation and not to fight. Well, the messenger tells him "Yazid cannot tolerate you alive". Hussain beseeches. He says, "I have my wife and children and unarmed friends with me. If you are withdrawing from your pledges we do not want to quarrel with you. Let us return peacefully. I do not want to fight with you." The enemy says : "No. Now you are in our grip and we will not let you go". They declare war. Even children are slaughtered and Hussain and his party suffered all this bravely and with fortitude. He resigned to the will of God, but did not bow before tyranny of Yazid and valiantly refused to compromise his principles.

This is Hazrat Hussain's story of martyrdom in brief.

Sheikh Saheb, referring to this historic event, told his audience at Hazratbal : "Remember that is history.

Whatever privations you are suffering today, do not forget Hazrat Hussain's tragedy." Children of these 14 accused here, for instance, families of 67 accused in the Hazaratbal Case, hundreds of our other colleagues who after 9th August 1953 coup have been crushed under oppression, for whom the doors of employment are shut, who are branded as enemy agents, all are undergoing unmerited suffering. Sheikh Saheb says : "Like Hussain suffer all this, keeping in view the tragedy of Karbala which teaches nothing but that you suffer for a right cause but do not yield your ideals and objectives. Maulana Azad, a revered memory, while writing about this historic event under the caption "Shaheed-e-Azam", (Great Martyr) gives the soul-stirring account of the tragedy. He was a minister of the same government which is behind this prosecution.

Today Sheikh Mohammed Abdullah is prosecuted for having mentioned the same incident. It is alleged that reference to the tragedy tantamounts to incitement to violence. How unfortunate it is that reference to this important event in Islamic history should be made the basis for our prosecution !

The lesson of this incident is patient suffering for noble cause. It is the greatest insult to freedom of conscience to prosecute us on that ground. I can only appeal to moral values. Judge me even u/s 121A. Can this speech provide any ground in support of that offence ?

Material means condemned :

Sir, permit me to go ahead with the speech. Sheikh Saheb says : 'I was asked to give support to untruth

which would be against the wishes of the people of this place. Those who depend on material forces, on money, guns and other materials of this mundane world, they do not achieve anything." From the depth of his moral conviction he says :

"Jin logon ko bandooqon par, fauj par, rupiyon par bharosa hai, woh kisi cheez ko tah-o-bala nahin kar sakte."

He condemns these material aids, these material instruments to achieve ends. In particular he condemns bloodshed and use of force and use of guns etc. (How Gandhian is it !). Those who rely on these means cannot achieve anything in this life. Such a man is being accused of violence, of getting booby-traps and gun-cotton slabs, arms, hand-grenades and planting them in mosques and temples and of causing murder of fellow citizens !

Sheikh Saheb's stand—truth and non-violence :

Now, Sir, this is used as basis of charge against Sheikh Saheb, as an evidence against Sheikh Saheb. He says:

"Jin logon ko bandooqon par, fauj par, rupiyon par bharosa hai, woh kisi cheez ko tah-o-bala nahin kar sakte. Aur doosri taraf ek aisa admi hai jisko tamam duniya ki fauj, tamam duniya ki dault, tamam duniya ki taraf hech ke barabar nazar aate hain, kiyonki woh Khuda par barosa karta hai."

Here he affirms again that he does not depend on arms, on money and material, does not depend on instruments

of war but he relies on God Almighty's mercy. Suppose Sheikh Saheb personifies himself with those who depend on God, then the prosecution must accept the irresistible inference that he is not thinking in terms of violence, nor of material instruments of war, he is thinking of moral codes and moral values. They cannot get away from that conclusion.

Sheikh Saheb is not the man to preach violence or use criminal force. Gandhiji has times without number said, "Do not depend on material forces, depend on moral forces." Panditji has said hundreds of times in reference to Kashmir that he wants union of hearts and not force of armies to bring Kashmir to India. Exactly the same thing Sheikh Saheb has said. This passage is the operative part and the spirit of the whole speech.

Sheikh Saheb is very condemnatory about those persons who depend on money, arms, bullets for achieving certain ends.

He insists, depend on God and moral force. One day India will be overwhelmed by moral force and remember her pledge. It may be his dream, that is not the question, but this is his faith.

This attitude of mind must exclude all intentions of violence or physical force attributed to Sheikh Saheb from the very passage relied on by the distinguished counsel for the prosecution.

Legal sense outraged :

Then about 6 or 7 lines thereafter :

‘theek hai unko kamzorian aaeen, unhon ne golian chalaen, bandooq chalaye, Assembly men pass kiya ki ham ne jo pass kiya Khuda bhi nahin badal sakta. Magar woh nahin jante hain ki jo kuchh unhon ne kiya woh bandooq, fauj, golian, unhon ne kis balbute par kiya. Main Pandit Jawahar Lal Nehru aur Krishna Menon ki baton par afsos karta hoon ki jo dawa karte the ki Hindustan ki buniad sachai par hai, Hindustan Gandhiji ke usoolon ko dunia ke samne pesh karta hai. Unko sharam nahin aati hai. Woh mukhtalif tariqe aur ghalat dalail dekar jhoot ko sachai ka libas pehnate hain aur dawa karte hain ki ham Gandhiji ke pujari hain. Woh log Gandhiji ke khilaf be-insafi karte hain.”

Sheikh Saheb says that they shot bullets and under-bayonets passed the Assembly resolution.

They claim now that whatever the Assembly has passed even God cannot change. It is irrevocable. A man with a legal sense, is outraged to hear that a particular clause in the Constitution is irrevocable and never till eternity can it be altered.

The moment you put in any unalterable clause in any Act or Constitution which can never be, till eternity, changed that very moment you deny the sovereign right of the people. You bang the door of constitutional procedure. In democratic age do you write such a Constitution? Sheikh Saheb might have bitterly commented on that, but is that treason?

Now, it is a fact that such constitution-making was preceded by a blood-bath. They are not ashamed of that. The question is, does it incite hatred—a mere factual

comment on certain provisions of the Constitution? It is not distorting the fact. There is nothing in this passage inviting unrest or inciting hatred as alleged. On the contrary such criticism is the breath of democracy.

Mr. Krishna Menon as leader of Indian delegation told the Security Council that Plebiscite Front was contesting elections in Kashmir, they had put in nomination forms and that Kashmir authorities had assigned an election symbol or emblem to them. Actually, we were all in jail. We had boycotted election and Mr. Krishna Menon told them that we were contesting elections. Now, if somebody tells them that Mr. Menon's assertions are far from correct and that there is no democracy in Kashmir, he is being prosecuted. However, what ever Sheikh Saheb has said cannot be legitimately taken exception to, nor does it spread hatred against India.

Why being called guilty for exposure of CRP¹ ?

He goes on to say:

“Kiya wajah hai phir 5 saal se Kashmiri musibat ki zindagi basar karte hain, kiya wajah hai CRP yahan lathian lekar jama hain ?”

Now, these are hard facts. Your honour will see tremendous evidence that CRP is here too, at a stone's throw from the court. After half an hour I will be handed over to their custody. Is it treason to say that I am in their custody? You don't have to call so much of police here. CRP was in charge of Srinagar Central Jail for a long time. They may be still there. At one

1. Central Reserve Police = C.R.P.

time they were holding searches of our colleagues. I wish a bold judgment was written and India was told the truth. Why should we be called guilty simply because we expose participation of CRP in Kashmir repression? He goes on to say :

“Peace Brigade ke admi yahan par maujood hain. Unke bare men nafrat ka jazba nahin hona chahiye tha.”

And again,

“Unke bara men nafrat ka jazba nahin hona chahiye tha, magar kiya wajah hai phir bhi woh maujood hain?”

Comment is needless. Then he takes up the thread.

“Raat din woh hamare kan khat hain ki Kashmir aur Bharat ka bandhan atoot hai. Kiya wajah hai ki CRP abhi maujood hai? Kiya wajah hai ki Dayalgam, Doru, Shahbad, Bejbehara, Pampore men police ne dehshat phailaya hai?” Obviously Kashmir is a police State.

“CRP bhi unke peeche maujood rahi. Woh khud kuchh nahin karte. Gaon walon ne mujhe kaha jo dehshat phailate hain, woh khuftan faqir* hain.”

Here he says if it is possible, we must return to normalcy. There should not be this Peace Brigade and CRP demonstration—CRP is a quasi-military organisation.

No sign of normalcy :

British foreign rule brought this organisation (C.R.P.) into being as a Central Force. Where they did

*Khuftan Faqir—nick name for Peace Brigade. Means beggar who comes to steal when all are asleep.

not want, where for international considerations they did not want to use army, they would despatch this Central Reserve Police to suppress people and crush popular agitations. It is as good as army, in personnel, composition and training etc. Now, Sheikh Saheb says if we are having peaceful and normal administration and accession has been finalised, what do you say to this net-work of C.R.P., right from Kud to this place? What were they doing here, except harassing the people? If the accession has been finalised, why this?

He tells friends in the State and in India not to deceive India. You do not make pathetic appeals in such words if you harbour inimical feelings. But prosecution is looking at these words through black goggles.

Panditji himself has said that even if the sovereign Parliament decides that Kashmir's accession is final, it will have no meaning until Kashmir people decide. It is an irrefutable truth, Government of India's counsel should not feel happy in taking objections to Sheikh Saheb's observations that if Mr. Krishna Menon says, one lakh of times, that they have settled the Kashmir issue, it is of no use unless the people of the State take a decision. Sheikh Saheb's criticism is correct. Unless the people of Kashmir, in a free plebiscite take a decision about accession, it is no use if people at Bombay, Madras, U. P. etc. say that Kashmir has acceded to India. Is it treason to make that comment? The decisive factor is the will of the people of Kashmir. There is nothing objectionable in saying that. You cannot prosecute a man for treason on that.

“Is mutbarrak ziarat par main aapko yaqin deta hoon ki main aur mere sathi jab tak is ‘Sardari awam ka haq hai’ ke usool ko amli jama nahin pehnayenge, tab tak hamri jadd-o-jehd khatam nahin hogi. yih mulk tumhara hai, yih mulk Krishna Menon ka nahin hai.” Is it treason ?

Reference to Law of State subjects :

We have a law of State subjects here. According to that Mr. Krishna Menon is not a State subject. Why should he feel offended at being told so ? Everything has become treasonable here.

“Yih mulk tumhara hai, yih mulk kisi aur ka nahin. Yih Roos, America, Pakistan ya Hindustan ka nahin hai. Yih mulk yahan ke Hinduon, Musalmanon aur Sikhon ka hai.”

Kindly concentrate on this. Mr. Pathak conveniently forgot that Sheikh Saheb preaches that this country belongs to Hindus, Sikhs and Muslims of the State. Will this attitude indicate that the speaker intends to spread communal hatred ?

“Yad rakho iska faisla koi shakhs, Sheikh Abdullah, Maulvi Saeed, Afzal Beg, Bakhshi Ghulam Mohammed ya Sadiq ke haath men nahin.”

He has identical sentiments all in Kashmir. We are all State subjects except Mr. Krishna Menon. However, Sheikh Saheb says, individually nobody can decide the

accession issue. Now, if it is derogatory about Bakshi Ghulam Mohd., it is derogatory for the speaker and for me also. But there is no idea of disparaging or discrediting anyone. He is discussing a principle.

“Unka ek vote hai. Is mulk ka faisla karne wale yahan ke chalees lakh marad aur auraten hain jo Hindu, Musalman aur Sikh hain. Yih sab ka mushtarke faisla ya aaini tariqa hai. Unmen se jo aksariyat ka faisla hoga woh sare mulk ka faisla hai. Koi aur faisla yahan nahin ho sakta hai.”

Again emphasis is on oneness of Hindus, Muslims and Sikhs—oneness of the State subjects, of course, distinguishing them from non-State subjects. This is the basis.

Basis of the speaker's approach :

When your honour comes to take an overall picture, as prosecution have solicited of you, you will see that this is the basis of the speaker's approach. He does not contemplate use of booby-traps, or gun-cotton slabs. He asserts that the one fundamental thing which links his life with the life of the State's people is that people are the arbiters of their fate, that the sovereignty vests in them and that they cannot live in isolation—Hindus separate, Muslims separate and Sikhs separate.

Kindly see how repeatedly he emphasises oneness of nationhood, irrespective of caste, creed and colour. Can such a man be accused of preaching communal designs and hatred? Can he be accused of inciting hatred and contempt? Even so, if I preach oneness of Hindus,

Muslims and Sikhs of the State, let it not be construed that I am preaching any animosity to India or Pakistan.

Crux of the theme—operative words :

Now, the prosecution counsel told you that the speaker's words show his intentions. Here are his words, take them.

“Yih namumkin hai Sheikh Abdullah Hindustan ka dushman hai, Pakistan ka dushman hai. Pakistan men hamare hazaron lakhon dost hain. Yih mulk donon mulkon ki dosti ke baghair zinda nahin rah sakta hai. Yih jhagra na to naara bazi, na to fraud aur dhoke aur na shamsheer aur talwar se hal ho sakta hai. Iska hal siraf insaf se ho sakta hai.”

This is the crux of his theme. They are the operative words, the soul of the whole speech.

He says this dispute (of accession) cannot be solved by shouting slogans or by playing fraud and nor by sword or gun. He rules out political intrigues and chaos, shouting slogans as well as force as a means of settling this issue.

I beg of your honour to note it down as the soul of the whole speech. These are the words of the speaker himself.

He says this issue can be settled only on the basis of justice. He appeals that force can avail nothing. If force could pay you arms could pay, if bullets could pay, then British would never have left this sub-continent. What

greater proof do you want for the faith of the speaker in non-violence, in peaceful methods, in democratic ways ?

Instruments non-violence and love :

Hundreds of speeches of Mr. Nehru can be quoted to show that the basis of accession of Kashmir can only be the union of hearts. Sheikh Saheb is saying exactly the same thing. Hearts can be won not by Central Reserve Police or by harassing people. He is excluding all material instruments and the instruments of repression and rules them out as means of winning the hearts of the people. He insists on the one successful instrument—love. Note these points : (1) He is reminding India of her own pledges to Kashmiris. (2) He is preaching the gospel of love to his own people. (3) He is condemning all instruments of violence as means of achieving settlement and cooperation. Can you accuse such a man to be instrumental to bring and use bombs and other explosives ? Here is a gentleman speaking out his mind, opening his heart in the shrine of the Prophet of Islam.

No desire for office :

In the shrine of the Prophet of Islam the speaker tells lakhs of Muslims : "I have no desire for this chair or that office".

Force cannot beget friendship :

Then he says :

"Bahasiyat dost ke, magar main unse kahoonga ki jab tak aapki dosti bandooq ke bal boote par hai tab tak yahan ke log aapke dost nahin ban sakte hain. Ek taraf aap dabao ka jaeza lete hain, doosri taraf yahan ke log aapke dost kaise ban sakte hain ? Agar ek bar admi dhoka khaye to doosri bar woh dhoka nahin kha

sakta. Main tamam Hindustan ke doston ko yaqin dilata hoon ki mere dil men Pandit Jawaharlal Nehru ki wohi izzat hai."

Now that does not mean he is inciting hatred against India.

"Magar main unse kahoonga ki jab tak aapki dosti bandooq ke bal boote par hai tab tak yahan ke log aapke dost nahin ban sakte hain." How friendly is it ?

As long as you keep the basis of your relationship with the people on sheer force, you cannot win their hearts. This is a historical fact, this the human nature itself. Nobody could win the hearts of people on the basis of force.

"Ek taraf aap dabao ka jaeza lete hain, doosri taraf yahan ke log aapke dost kaise ban sakte hain ?"

He has said that you cannot depend on force and cannot win Kashmir on the might of force. He says : "I am ready to make any sacrifice for Panditji but I must stick to truth."

Open inquiry demanded from India—no hatred :

"Main unse kehna chahta hoon ki unke bandooqon ne unke seene kiyon cheer diye ? Main unse kehna chahta hoon ki Sheikh Mohammed Abdullah par jo ilzamat lagaye gaye hain unki khuli tehqiqat ki jawe."

Kindly remember that he did not say this to the Prime Minister of Pakistan. If it is proved that he has stabbed India in the back then "ghar ghar phansi laga do." This is the highest penalty that a public worker can impose on himself.

This cannot be interpreted to mean that Sheikh Saheb harboured ill-feelings about India or Pandit Jawaharlal Nehru, hatred against India or meant to incite people to violence or advocate overthrow by force the government of Jammu and Kashmir, much less does it indicate even remotely annexation of the State with Pakistan.

"Main zinda rehne ke qabil nahin hoon. Koi cheez aap sabit karo jo Sheikh Abdullah ne Hindustan ke khilaf ki ho, to aaj bhi Sheikh Abdullah ko goli chala sakte hain. Magar shart hai ki Sheikh Abdullah ko mauqa diya jaye ki woh apni safaai pesh kare. Sheikh Abdullah jo Gandhiji ka pairon tha, woh Gandhiji ke usoolon ko duniya mein ooncha rakhna chahta tha. Us shakhs ko aapne 4/5 saal jail mein band rakha. Main ne bar bar kaha ki mere saath insaf kiya jaye. Aaj Hindustan mein Hindu mandiron mein Bhagwat Gita mein Krishan Bhagwan ne jo sabaq diya hai ki sachai ke liye, khatir, aur koi dost ya rishtedar qurban karna pare to karo, magar insaf par qaim raho. Kiya Gita ke manane wale aaj mujh se insaf karte hain? Lakhon Hindustani ab bhi mujh se mohabbat karte hain." He asks for justice for himself from those who believe in Gita.

“Lakhs in India still love me”—is that hatred ?

“Gita has taught you to stand by truth even if that truth is against your dear ones and judge me accordingly. There are lakhs of people in India who love me still.” Is that an indication of hatred against India or Indians ? Gandhiji very pitily one day put to a magistrate : “You can sentence me for spreading disaffection against the government, but you cannot control my affection that I must love the Government. It is a long way between spreading disaffection and not loving. There is no provision in the penal code to the effect that thou shalt love me.”

Expedite satisfactory solution—General demand :

“Jab main ne yih lafz Krishna Menon ki zaban se sune, mujhe bahut ranj hua. Main chahta tha ki usko khat likhoon. Main ne khat likha bhi, magar main ne socha, jane do. Waqt batayega sachai par kaun hai. Ham chahte hain ki is masle ka hal ho. Duniya ke log chahte hain ki is masle ka hal hona chahiye. Main bhi yahi chahta hoon. Hamari izzat yahan par tab tak mehfooz nahin reh sakti jab tak yih masla hal nahin hota. Koi bhi nahin jo yih nahin chahta.”

Every body wants that this question should be settled.

“Do hi raste hain. Ek jang ka rasta hai, woh koi qabool nahin karta. Doosra rasta aman, aashti aur sulah ka hai. Faisla aisa ho jo har ek ke liye achha ho.”

This is the way of peace he is advocating. He asks for something which satisfies the people of India and Pakistan.

“Woh taqrir bazi se nahin, Krishna Menon ki taqrir se nahin, Pakistan ke leaderon ki taqriron se nahin, amli hal woh hai jo sabon ke liye ba'is-e-itminan ho. Tamam zehar door ho. Main ne aap se kaha tha ki is waqat log kehte hain ki agar Sheikh Abdullah phir se koi baat kahe, to woh jail bhej diya jayega. Main jail se nahin darta. Main wohi kuchh kahoonga jo main ne 1931 se kaha hai. In chaar saalon men bahut se mere dost jailon men bheje gaye Khuda tala unko sehatyab rakhe. Kuchh mere dost is duniya se chal base.”

The speech—not objectionable :

Now, Sir, I have gone, at length through the passages which the distinguished counsel for prosecution read out to you, drawing his own inferences. I will beg of you to have the whole picture before your mind. I do not only contend that no offence whatever is made out from the report of this speech, but, on the contrary it positively establishes the defence of the accused : (1) That the speaker believes in peaceful methods, completely ruling out war-like violent methods of force ; (2) he advocates strongly oneness of Hindus, Muslims and Sikhs, residents in the State, irrespective of caste or creed ; (3) he insists on the settlement of the issue in a just and peaceful manner, giving satisfaction to all parties which alone, in his opinion, can remove the bitterness from the heart of everybody concerned.

(The Court rose for the day).

CHAPTER II
Defence Arguments
(18th May 1961)

By

MIRZA MOHAMMED AFZAL BEG

On

Sheikh Mohammed Abdullah's Speeches.

ExP. 269/A/1

Dated 17th January 1958.

ExP. 269/B/1

Dated 31st January 1958.

(Continued in Chapter III)

CHAPTER II

I have dealt with the speech as recorded by the reporter on 13th January 1958, yesterday Sir. I pointed out that the solitary passages wrenched out of context by the prosecution may give you a wrong impression. When you read in the full context of what precedes them and what follows them, it is fully established that the intention of the speaker was not what is sought to be made out; nor can the intention of hatred, venom and bitterness be attributed to the speaker.

Sir, in judging us by these speeches your honour will kindly bear in mind that neither the reporter nor the translator and upto a certain degree not even the prosecution (while arguing), have failed to project their own minds while placing the speeches or their interpretations before your honour. This projection of minds is often very dangerous. Therefore, Court has to look in a cold-blooded manner on the words spoken by the speaker himself, subject to limitations of reporting etc., as I pointed out yesterday. Your honour will also consider the last speech in relation to the charges brought against us and solely in that light alone. Your honour has not to judge the political merit of the speech (though even from that point of view it is unassailable) but its relevance to the ingredients of the offence of which we are charged. That alone is the correct criterion.

17th January 1958 Speech :

Today I come to the next speech which is ExP. 269/A/1, delivered by Sheikh Saheb on 17th January 1958. I shall straightaway go into the speech and give my general observations at the end.

“Bazurgo, bhaiyo aur behno, 8 January ki sham ko meri nazarbandi khatam hui, aaj tak yani 17 January tak goya 9 din hue. In 9 dinon mukhtalif doston se mila aur door jaghon se dost mujhe milne ke liye aae. Verinag se bahut dost aae jinhon ne koshish ki aur mujh se mulaqat ki agarche yeh koshish ki gai ki yeh log mere sath malaqat na karen, kiyonki aap ko yad hai aur jo kucho yahan ki police, CRP ya Peace Brigade ya baqi woh sab istemal kiye gaye, isliye ki log mujh se na mil saken. Chunache Banihal se jab is par aya to yeh sara manzar dekha. 9 January ki subah jab main Verinag se nikla to Srinagar tak mainen apni aankh se dekha, mard, baehche, aurtan koochon me mera intizar karte the. Intahai koshish ki gai ke tamam logon ka ihtama na ho sake magar bawajood iske logon ka kafi ihtama mujhe milne ke liye aya. Chunache barabar Verinag se Srinagar tak jin doston ne muhabbat se deodhian banai thin unpar tarah tarah ki sakhtian ki gain. Magar bawajood in zalimana harkaton mein woh apne maqsad men kamyab na hue. Woh duniya ko dikhana chahte the ki mere sath koi nahin hai. Baharhal afsos mujhe is bat ka hai ke jab insan daniya men mullawas hota hai uske dimagh mein Firaun ke se khiyalat paida hote hain, woh bhool jata hai ke insani taqat ke upar Khudatala ki taqat hoti hai. Jab insan koshish karta hai ke

mak'r-o-fareb ki chalon se kamyab hojao, jab sadaqat pehchanane ke liye Khudatala unko behtareen tadbeer karta hai to yeh sari mak'r-o-fareb ki chalen mitti men milti hai. Magar is baat ke liye waqat ki zarurat hai. Yih kam yakdam nahin hota. Khuda tala insan ki aazmaish karta hai. Chunancho in 4½ saal ya 5 saal aap ghaur karen ki kis tarah is arse men tamam makkar chalen ahista ahista ek ek kar ke chalai gain magar tamam ke tamam gir gain. Udhar aapke paas koi fauj nahin thi, rupiya nahin tha, taqat nahin thi, taki aap unka muqabila kar sakte Hamare karkun jailon men band kiye gaye the. Hamari awaz aap tak nahin pahunch saki thi. Woh kaun si taqat thi jo aap tak pahunchi, woh kaunsi taqat thi jisne aap ko kaha yih sab kuchh dhoka hai ? Yih Khuda tala ki taqat thi. Yih Sheikh Abdullah ya Afzal Beg ki taqat nahin thi. Woh chahte the ki jhoot sach bane magar unke tamam saman ek ek kar ke gir gaye. Ab woh is pareshani men tarap rahe hain. Sachai kabhi nahin mitati hai."

Now, what is the charge against us ? The prosecution counsel says that the speaker used the word 'Firaun', that he talked critically about CRP and police having used unfair means to deter people from meeting Sheikh Saheb. He accuses that the speaker has referred to 'Makar-o-fareb' and, in his judgment, he has attributed this to the government. And he also objects to the words "Apke pas fauj nahin thi, rupiya nahin tha, taqat nahin thi."

But he forgets to say, very significantly, that the culminating words were that all this malicious propaganda against the speaker fell through item by item, not because people had army and other material resources, but because

'Apke pas taqat thi, woh taqat Khuda-e-Ta'ala ki thi' and that this force or power did not belong to Sheikh Mohammed Abdullah or Beg, it belonged to Almighty God.

Malicious Propaganda :

Now, Sir, as you will see through these speeches and also in our statements, malicious propaganda against Sheikh Saheb was set afoot on 9th August, carried on vigorously through press and word of mouth, throughout the 4½ years he was in jail. In and outside India considerable maligning and character-assassination was taken recourse to and, as you will find in Sheikh Saheb's statements, Mr. G. M. Sadiq immediately after 9th August declared in Bombay that Sheikh Saheb had conspired with America; that the reason for Sheikh Saheb's overthrow and dismissal of his government was the supposed American conspiracy in Kashmir.

It was alleged that Mr. Adalai Stevenson of United States had met Sheikh Saheb just a few days before 9th August at Srinagar and they had conspired together. Subsequently, in a way India refuted this charge, but the fact was that malicious propaganda in foreign countries was ruthlessly carried on against Sheikh Saheb and his colleagues. Also in U. N. in a very diplomatic way insinuations and references were made to this baseless charge. Sir, it requires some hard effort to put oneself in the position of a public man who has devoted his life to maintain the honour and dignity of his people and then to realise the effect of this character-assassination. The victim is put behind bars and denied all facilities to

tell the world the truth about it. Your honour will imagine the condition of a man on whom all these political abuses are hurled and to whom these unpatriotic acts which befit only a traitor, a betrayer of trust, are attributed. How would he feel ?

Explanation to the people—a duty :

His first duty after release will be to explain to the people that he had not let them down, that the charges were false one by one, that he had not sold their honour and dignity and that he had not betrayed the movement of which he was symbol and for which hundreds had shed down their blood, hundreds had courted imprisonments and hundreds had suffered privations. He owed it heavily to public. If we have any respect for democratic values, if we have any regard for human values, we must realise he owed it to the people to tender his explanation, to say something about the propaganda carried on against him during 4½ years. This is the position in which Sheikh Saheb was speaking on that day.

Very significantly he opens his speech by saying : "This is the 9th day of my release. I have very recently come to you after 4½ years and you have heard a lot against me and my so-called betrayal of your rights, which I had no resources to contradict. I could not speak. Recklessly these charges were levelled against me at my back. I was condemned unheard. Today I am before you and you see where is that charge of making Kashmir a second Korea ? Where is the question of American intrigue ? Where is the question of my having let down

and betrayed India ? All these charges have one by one fallen to the ground and truth has been disclosed.

What power revealed this truth ? "Not that I could do it, because I was in jail; not that my colleagues could do it, because they were put behind the bars too; not that press was available to us because that was gagged; not that I had friends in position, not that I had means and money, nor that I had armies. No, it was only the power of God, faith in God, the moral force which exposed it." Now, if you deny even this right of explanation to a man of his stature, what can be more heinous in these days of democracy ?

Condemned unheard :

I shall mention another fact and your honour may note it. Sheikh Saheb asked Prime Minister of India, President of India and the President of the Kashmir Constituent Assembly that if there was a no-confidence motion against him, to permit him to go to the Assembly and face it. This is denied to him. J & K Assembly met six or eight times during the interval. He was not allowed to appear before it. The Assembly takes up Constitution making. Even as a detenu when he continued to be a full-fledged member of the Constituent Assembly, he was not allowed to appear before the Assembly. Can you imagine a worse example where Prime Minister is condemned unheard ? You deny him all these constitutional ways. May I ask Shri Pathak : who subverts the Constitution, who bars the democratic ways and who denies the legal procedure ? It is they and not we. And Sheikh Saheb is now left only with one choice of explaining to the people after his release that all the charges against him

were false There was no American intrigue, there was no letting down of people and there was no betrayal of India.

Who advocates unconstitutional methods :

When a Minister resigns even he has a right to make a statement before the House. This right he is given by the Constitution. But this is denied in the case of Sheikh Saheb. Sheikh Saheb makes efforts, I also make efforts to persuade the ruling party to concede this basic human right. But this is not done. May I ask who advocates unconstitutional methods, who practises unconstitutional methods ? It is very easy and cheap to talk of democracy and human values. But what is being done in Kashmir ? History is replete with instances that you kill democracy and human values in Kashmir. You trample civil liberties and unabashedly deny even to the leader the right to appear before the Assembly. You cannot have bouquets from us for this.

Now, Sir, he does not name anybody. "Magar bawa-jood in zalimana harkaton men woh apne maqsad men kamyab na hue". That is what he expresses and it is unexceptionable. It is tyrannical to deny the Prime Minister the right to appear before the Constituent Assembly at the time of no-confidence motion. It is tyrannical in the context of democratic values. What else can you call it ? Despotism, undemocratic and unconstitutional and certainly tyrannical.

Constitutional rights denied :

Now you are afraid that this will create hatred against the government, I do not subscribe to the charge because

Article 19 of the Indian Constitution stands in your way. It gives full rights to the individual to criticise the government action and if you stop him, you come into conflict with the Constitution which you show to the world you have given to Kashmir and which in practice you deny. Say that you do not apply that article to us. That will be more honest.

Court will remember the Supreme Court judgment that such criticism is permissible even to the extent that it may create unrest. Indian Constitution protects that in the light of Supreme Court judgment which I cited on the first day. Comparison is not banned. It is one thing to say that you are Pharaoh and it is another thing that your talk compares with Pharaohic talk or your action is comparable with the action of Pharaoh. Who was Pharaoh? He was the king-emperor and what did he do to the tribe of Israelis and the whole nation? Pharaoh misled them, told them the wrong things and black lies and told them the ungodly things; that is a fact proved by history.

Nehru contradicts accusation against Sheikh :

Kindly recall here that Pandit Jawaharlal Nehru contradicted on the floor of Lok Sabha the accusation of American intrigue imputed to Sheikh Saheb. It was a figment of imagination conjured up, simply, for character assassination. How Sheikh Saheb might have said that this lie of American intrigue is comparable with the lie of Firaun. There in I do not see any objection if you allow any honest criticism of the government, if you allow a citizen to say that the charge brought against him was

so malicious and spiteful like the one Firaun used to level against Moses.

Depend on power of God :

He says : "Uske dimagh men Firaun ke se khayalat paida hote hain. Woh bhool jata hai ki insani taqat ke oopar Khuda tala ki taqat hoti hai". This is achieved not by force of bombs and hand-grenades or by lathi. No. Pray for God's mercy, God who reveals all truth, He says these people forget that God is All-Powerful. Then he reverts to generalisation of a principle :

"Jab sadaqat ko pehchanne ke liye Khuda tala unko behtrin tadbir karta hai, to yih sari makar-o-fareb ki chalen mitti men milti hai".

Who can deny this ? This is not creating hatred against the government. Any reformer in modern times says this thing. If in the Court I say do not participate in these proceedings, I leave it to God, does it create hatred ? That will only show my faith in All-Powerful God. Then Sheikh Saheb says 'don't take to hurried actions'.

"Magar is bat ke liye waqat ki zarurat hai. Yih kam yak-dam nahin hota. Khuda tala insan ki azmaish karta hai."

Now, Sir, I take up the thread from where I left it.

"Quran-e-Majid ka usool yih hai Khuda tala ki taqat jhoot ki imarat ko ahista ahista girati hai. Is arse men mera kam sirf Allah tala ki taraf rajoo karne ka tha."

Now, the distinguished counsel for prosecution asserted that this means that government will shatter because it is based on falsehood. Now, Sir, I would not mind that if there were those words there, because we are too much imbued with democratic ideas unlike those who are represented here on the opposite side. But these words are not there. The speaker is referring to material forces, armies and guns, which shake the structure of life, but they all shatter before "Khuda ki taqat"—God's power. This is a historical truth. It is taught by every gospel, every religion, that finally the truth shall prevail and falsehood shall disappear. It is not a building which is to shatter nor the government. It refers to widespread lies and malicious propaganda and baseless accusation and forces like that. When the curtain had been lifted from those lies, truth was revealed.

Now, look at the depth of the faith that the speaker has in the power of God, to reveal the truth to the exclusion of use of material forces used to that end.

Complaint—approach of Press not helpful to India in Kashmir

"Parsoon main ne Aasar-Sharif ya us se pehle Anant-nag men taqir ki. Woh akhbaron me nikli. Press walon se jo main ne bayan diya, woh bhi akhbaron men nikle, magar afsos is baat ka hai ki jis tarah unhon ne meri taqir ko duniya ke samne rakha, woh sadaqat se balatar tha."

His speech may have been distorted. That is not his experience alone. Prime Minister of India frequently

makes a complaint of it and Mr. Krishna Menon too made a complaint of it. Sheikh Saheb too was victim of this thing—propaganda was carried on against him by the press. It is not objectionable to make complaint of that.

“Woh ghalat rang men pesh kiya gaya, halanki is se na unko faida hai, na Hindustan ko faida hai aur na kisi ko faida hai”.

I also hold that opinion that had during the last 8 years Indian press taken the attitude which to a certain extent it takes now, they would have retained considerable goodwill in Kashmir for India. I must concede that Indian press now shows indications of re-orientation of its attitude to a certain extent. Indian press has a glorious record of its services in the freedom struggle before independence. But unfortunately they took an unfriendly attitude on 9th August 1953 and thereafter. Sheikh Saheb makes a complaint of that.

He is grieved by the fact that Indian interests are not thus served. Now, an enemy of India will not speak like that. It is only a friend who can think in those terms. Your honour will underline the words that the speaker is grieved that this approach of press will not help India in Kashmir.

“Bahut se Akhbar walon ne yih koshish ki ki intehai ghalat aur ganda propaganda hamare khilaf istemal karen. Agar unhon ne ghalat propaganda kiya, kis ke liye? Who “lor dastar” kath ka putla banana chahte hain. Magar woh kis tarah ho sakta hai? Hamare pas koi rupiya nahin tha.”

Now, if you buck up a man, boost up a man, who is without public support, you cannot thereby give him roots amongst the people. I don't like to go into personalities. We do say in Kashmiri "lor dastar gandum" i.e. boosting up a man who has no personal existence or position i.e. "kath ka putla". "Lor dastar" is one who has no standing. 'Kath ka putla' is one with feet of clay. That means you have no public standing, you have no public backing.

General Elections while leader in Jail—Why ?

If they deny that, then why did they not release Sheikh Saheb during the general elections? No harm would have been done if instead of 8th January 1958 he was released in July 1957. With the people's leader in lock-up and jail, you boost up other men. Just read what Mr. Ghulam Mohd. Sadiq (now a minister) has said in the election petitions of Democratic National Conference. They have fully exposed the fraudulent character of Kashmir elections. I have stated in my written statement how you jockey people into office by gerry-mandering. If you don't like us, even say this much and stifle people, then all these tall claims of democracy are further exposed.

9th August 1953 events—murder of democracy :

Again excluding any consideration of material force, Sheikh Saheb says :

"Hamare paas koi rupiya nahin tha. Chunache jo kuchh ham ne in 25 saalon men jama kiya, uspar unhon ne qabza kia. Unhon ne koshish ki ki jo kuchh

main kahoon won sahih rang men duniya ke pass na pahunch sake''.

Now, Sir, Mr. Pathak has made a grievance of it that Sheikh Saheb is so possessed with the idea that whatever he had gained in 25 years they have taken it away. These words are not there. I again beg of you, kindly do not go by the translation of the prosecution. Your honour knows Urdu and can follow every word. Now, that is not a correct translation. Assuming that Sheikh Saheb is referring to 9th August coup, as prosecution allege, can Mr. Pathak and his colleagues say that 9th August action was legal? Was it democratic, was it constitutional? Have I not the right to say that it was highly illegal, highly undemocratic and unconstitutional, that you subverted the Constitution on that day? You murdered democracy and yet you claim that rule of law prevails in Kashmir! Sheikh Saheb unfortunately has not referred to that in very clear terms. That is truth and I have the right to hold a legal opinion that the action taken on 9th August was unwarranted by law and constitution.

Secondly, it does not refer to the government, for you never had any 25-year ("pachees-sala") government. How does the prosecution strain these words to mean government, and stretch the words to mean that Sheikh Saheb is mourning the loss of office? Possibly, he is referring to the great movement under the mighty organisation—people's organisation. There were democratic principles imbued by the organisation. Now, if you behave undemocratically, remove the head of the organisation undemocratically and create dissensions in that

organization you rob Kashmir of the greatest asset, it had built up in tears and blood for the last 25 years. You have got profusely in the prosecution evidence that the National Conference was disrupted on 9th August.

Mourning at the plight of the National Conference

It gives me great pain that the greatest organisation of Kashmir was thus lost. That was one thing which we built up with our blood and that is the organisation, of which not only Sheikh Saheb and myself were proud, but which had earned tributes from Mahatma Gandhi and Pandit Jawaharlal Nehru. It was an honour for Kashmir as a whole, for the people of Kashmir. That was the organisation which earned that tribute in the crisis of 1947 when rivers of human blood were flowing in India and Pakistan, when stalwarts like Pt. Jawaharlal Nehru and Mahatma Gandhi, whatever the depth of their feelings which nobody questions, failed to keep the people on proper rails, Sheikh Saheb and his colleagues did keep peace in Kashmir. But where is that organisation now? It is gone along with its ideals. It was the first casualty of 9th August coup. The remnants of that body have now become hand-maid of the police—'CIA¹ ki laundi'. Their business is now to come as police witnesses or earn contracts, etc.

Hard facts of History—reminder to India:

The speaker goes on :

"Masla kiya hai jo hamare liye ba'is-e-pareshani bana? Kashmir men 10 saal se jhagra chalta aya hai. Woh

1. CIA=Criminal Investigation Agency.

jhagra kiyon hua ? Main sirf yih kehna chahta hoon ki Hindustan jis waqat azad hua woh do hisson men taqseem hua, ek Hindustan, doosra Pakistan. Jo riyasaten thin, unki tadad taqriban paanch chheh sau ke qarib thi. Unko yih haq diya gaya ki yih unko ikhtiyar hai ki woh Hindustan ke saath jayen, Pakistan ke saath jayen ya agar koi riyasat is position men ho jo na idhar ja sake aur na udhar ja saka donon ke saath talluqat qayam rakhe. Yih Hindustan ke taqseem ki bunyad thi."

Then 13/14 lines after :

"Musawwada-e-Ilhaq par Hari Singh ke dastkhat hue magar Hakumat-e-Hind ne kaha ki mustaqil ilhaq tabhi ho sakta hai jab aman ki surat men wahan ke log ilhaq karen."

That is history, that is hard fact. I shall deal with it as a separate topic because that is a topic which requires thorough treatment. I shall come to that separately.

"Jab aman ki surat men wahan ke log ilhaq karen. Bahar haal fauj ayi, jang chali, akhir men yih masla UNO men pesh hua. Us waqat bhi aapko ilm hai ki jab qabaili Baramulla se peeche dhakele gaye the to Pandit Jawaharlal Nehru yahan aya aur Lal Chowk men taqrir ki. Us taqrir men us ne aapko yaqin diya ki Kashmir ka masla Kashmir ke log hi hal kar sakte hain."

The distinguished counsel for prosecution has taken exception to this. He says that whereas Panditji's assu-

rances to the people of Kashmir that people will decide the future have been highlighted, no mention about Pakistan's failure to withdraw troops has been made in the speech. It should be noted that Sheikh Saheb is addressing India here and not Pakistan.

Ruthless to Pakistan :

It will be remembered that when addressing Pakistan he was far more ruthless about it. He is putting India in mind of her promises and he is not talking to Pakistan. When he talked to Pakistan everybody knows what forceful language he used. U.N. record for that is before the world.

What is the issue—whither blame ?

Here the issue is that India is resiling from her commitments. It would be appropriate, therefore, to impress on India that the obligations should be discharged. Again, promise of plebiscite was given to the people of Kashmir. In due time, I shall extensively quote Indian authorities giving the pledge of plebiscite to the people of Kashmir also. Thus people of Kashmir and India are the parties. It is one party saying to the other. When the case is India *vs.* Pakistan, they can tell them to withdraw the troops. It is Govt. of India who should insist on demilitarisation. In fact they promised Kashmiris that they will bring about demilitarisation on both sides and have plebiscite here. You promised me and therefore I am telling you.

Lastly, as far driving out outside troops is concerned, Govt. of India undertook that duty. May I say that they

don't want now that Pakistan troops should go. There is a tremendous proof for that. The present Indian attitude is to let Pakistan have that part of the State and keep to themselves this part. India offered that as a price for plebiscite. You don't like Pakistan to leave. Otherwise India can get that part vacated and our support will be there, provided India abides by her pledge of a free plebiscite. There is the rub. You don't want to hold the plebiscite, you want to give 1/3rd of the State to Pakistan as a price to hush up the plebiscite demand. You now accuse Sheikh Saheb for not referring to withdrawal of troops. Govt. of India is suggesting to Pakistan to freeze the cease-fire line with minor adjustments here and there and cast to winds the solemn pledge of plebiscite. But when I remind them to fulfill their obligation they accuse me that I don't press Pakistan to withdraw troops! My words will be meaningless. India which has armies, which has power, which gave us the promise, they are not keen about demilitarisation. It is a hard fact.

Not only that, I won't be revealing a secret that in 1947 when the raiders were fleeing, Indian Army did not advance beyond Uri and deliberately. These are truths and bitter truths, and the prosecution has invited them. Muzaffarabad was absolutely free from raiders. They had been withdrawn. For eight clear days there was nobody in Muzaffarabad but India was content with Uri. In these circumstances, can it be honestly hurled on me that we don't accuse Pakistan? We shall, however, press for demilitarisation if it comes to that, in case Govt. of India is ready to fulfill its pledge of plebiscite.

This statement of Sheikh Saheb refers to November 1947. You will note the reference :

“Aapko ilm hai ki 'jab qabaili Baramula se peeche dhakele gaye the to Pandit Jawaharlal Nehru yahan aya aur Lal Chowk men taqir ki. Us taqir men us ne aapko yaqin dilaya ki Kashmir ka masla Kashmir ke log hi hal kar sakte hain”.

This pertains to later part of November 1947. The matter had not yet 'gone to the Security Council and conditions of plebiscite, ceasefire etc. had not been stipulated.

He is recalling that event when Pt. Jawaharlal Nehru in Lal Chowk, in November 1947, gave that pledge to the people of Kashmir that finally they will decide the question of accession, even though Maharaja Hari Singh had signed the instrument of accession. Comment on withdrawal of troops in that context will not be appropriate. Now, tomorrow if Pakistan agrees to withdraw her forces, are you ready to take next step ? And once they did say they are ready to do so. But your trouble is that you don't now want to hold a plebiscite—hence your own omission to insist on demilitarisation. It is not fair to lay the blame at our door.

Not a new problem—demand very old :

Sheikh Saheb continues :

“Hindustan yih yaqin dahani har waqat deta raha. Jis waqat yih masla UNO men pesh hua, wahan par kafi ghaur-o-khauz ke baad akhir men Hindustan aur

Pakistan ne yih maan liya ki Kashmir ke mustaqbil ka faisla Kashmir ke 40 lakh insan ki marzi se hona hai. Bainul-aqwami jama'at ki nigrani me yih rae-yahan ke insanon se hasil ki jawe. Yahan ke marad aurton ko puri azadi se rae dene ka haq diya jawe. Chunache yih masla tai huc. Is bare men tafsilat par bhi faisla hua magar tafsilat ko pura karne men der hui. Hamne hakumat sambhalni thi. Yih masla koi naya nahin hai. Akhbar walon ya Hindustani agenton ko yih mamla aisa dikhai deta hai ki mere kahne se goya unke sar par sard gole parte hain. Yih nai maang nahin hai, bahut purani hai."

This is not a new problem. May be some pressmen from India might think like that "ki mere kehne se goya unke sar par sard gole parte hain. Yih nai maang nahin hai".

He says the question is very old but when he speaks of it, it is taken as if a bomb is thrown. Now, he is commenting on that.

"Yih bahut purani bat hai ki yahan ke awam ko sardari hasil ho. 1946 men jab main ne 'Quit Kashmir' ka naara diya aur mujhe 9 saal ki saza mili, to us waqat bhi mera yahi naara tha ki sardari awam ka haq hai".

He says that he is not raising this slogan that people are arbiters of their State today. It is there since 1931 and he has once suffered 9 years' incarceration for this slogan.

Three alternations we stood for India why 9 August 1953 ?

Again :

“Pandit Nehru aur marhoom Asif Ali ne bhi yih haq maan liya jabki woh mere muqadme ki pairavi karte the. Phir jab UNO men yih faisla hua ki Kashmir ka mustqabil azadana taur par tai kiya jawe. Main yih is waste kehta hoon ki bahut dost yih shor karte hain ki Sheikh Abdullah ne Aain Saaz Assembly banai. Usne yih awaz di ki Hindustan ki azadi ke baad riyasat ke samne teen hi raste hain”

Now, this is referred to by the prosecution. He says that there were three alternatives :

“Aur un men se Hindustan ka hi saath diya aur aaj woh us se inkar karta hai. Woh yih delail dete hain ki yih farsooda hai. Unko jawab dene ki bar bar zarurat nahin. Yih sahih hai ki main ne Aain Saaz Assembly bulai. Sheikh Abdullah inkar nahin karta hai. Sheikh Abdullah ne Aain Saaz Assembly bulai. Us Assembly men membron ki fehrisat Sheikh Abdullah ke namzadgi se murattab hui. Ghaliban aam log unko vote nahin dete agar unko Sheikh Abdullah ki taeed na hoti. Lekin Sheikh Abdullah is baat se inkar nahin kar sakta hai. Aain Saaz Assembly main ne bulai. Woh taqrir main maan lene ko tayyar hoon lekin baad men jo jhagre Hindustan ke saath hue, unse bhi Sheikh Abdullah inkar nahin karta. 9 August 1953 tak jo kuchh hua, Sheikh Abdullah puri zimmedari apne oopar leta hai. Sawal yih hai ki main inkari nahin hoon. Giraftari se pehle 4 din kin logon ne

mujhe chhate iman ka darja diya tha aur 4 din baad unhon ne mujhe aur mere sathion ko giraftar kiya. aur hazaron admion ko goli ka nishana bana diya''.

He goes on to say :

''Sheikh Abdullah kabhi inkar nahin karta hai. Woh danke ki chot kahega ki us ne Aain Saaz Assembly men jo taqrir ki woh bilkul darust hai. Delhi Agreement jo Pandit Jawahar Lal Nehru se kiya uske ek ek lafz se inkari nahin hoon lekin kiya main Hindustan ke doston se poochhna chahta hoon ki Sheikh Abdullah 5 saal ki nazarbandi ke baad bhi is baat ka iqrar karta hai ki ek ek lafz jo main ne 9 August se pehle kaha tha uska main zimmedar hoon aaj bhi, lekin is ke bawajood bhi mujhe aur mere sathion ko 9 August 1953 ko giraftar kiya, uski kiya wajah hai ? Kiya main yih poochh sakta hoon, kiya main akhbar walon se poochh sakta hun ki Sheikh Abdullah ne Aain Saaz Assembly bulai, taqrir kiye, ek ek harf se inkari nahin. Sheikh Abdullah Delhi Agreement ke ek ek harf se inkari nahin. Kiya main in insaf ke alambardaron se poochh sakta hoon ki 9 August ko kiya wajah thi ? Kiyon meri girftari hooi, kiyon mere sathion ki girftari hui, kiyon Kashmir ke Musalmanon ke dil golion se thande kiye gaye ? Sawal yih hai ki agar 9 August ko meri girftari hui, yahan ke Musalman bache, boorhe, marad, auraton ke khoon ki holi kheli gai, unka kiya qasoor tha ? In akhbar walon ne duniya men shor machaya ki unke agent jo apne aap ko wazir-e-azam kehlata hai, wahan Hindustan ke kone kone men phira. Hindustan ka numainda Krishna Menon America men jakar kehta

hai. Jab sawal kiya jata hai ki Sheik Abdullah ko giraftar kiyon kiya to woh intehai besharmi se kehte hain ki Sheikh Mohammed Adullah ne bairooni mumalik se sazish ki thi''.

Now, two things your honour may keep in mind. Sheikh Saheb admits that he made the statement in the Assembly, he convened the Assembly, he nominated members, perhaps who, otherwise, would not have got the vote of the people. So, indirectly vote of the people is for him. Now, prosecution cannot have it both ways. If the people's support was with him, without him the Assembly cannot enjoy that support. What is the worth then of its decision on accession? He admits Delhi Agreement, he admits he told the Constituent Assembly that there were three alternatives and the alternative with India was the only alternative. But what happened on 9th August to him and to myself and our colleagues? Why were they arrested and put behind the bars? Why were people shot down? Certainly he says it to Muslims because they were Muslims who were victimised. That is fact. How can you escape the fact? Even on a slight lathi-charge in India public enquiries are ordered forthwith. In Kashmir even the number of persons killed is not specifically known. Government admits they were 64. But no judicial enquiry was made. How can a public man omit to mention such vital matter? He has to mention it and Government may come in for criticism. Thus alone democracy can be guaranteed. Public workers are duty-bound to expose government failings.

Whither communalism—exposure a duty :

If some one says that all is well in Jabbalpore, he is the worst enemy of India. Those who want to hide this communal fratricide, they are nourishing these disastrous tendencies. Now, in the 9th August killings, the victims were Muslims and Id-ul-Zuha fell only a few days later. It is a unique event in the history of Kashmir that for 600 years past since the advent of Islam, it was the first Id which they did not celebrate because they were mourning. Now, when we mention those atrocities perpetrated on Muslims, we are being accused of communalism. But the boot is on the other leg. It is the duty of every honest person to expose communalism prevailing in any shape or form.

Now, according to the comment of the distinguished counsel, the arrest on 9th August was operating on Sheikh Saheb's mind. This must be, therefore, taken as a motive of conspiracy. I refute that allegation.

Assurance Democracy will flourish in India :

Kindly look at the background. The speaker says that he gave all these promises to India, made Delhi Agreement, convened the Assembly and all that. Why did he do all this? Not that Pandit Jawaharlal Nehru was his friend. Why are people like me with Sheikh Saheb? Because all of us were assured that democracy will flourish in India.

Now, when democracy was slaughtered, self-determination is denied, how can India retain people's support? Sheikh Saheb asks : "What aim I going to tell people?"

Vote of the people for the Assembly was given on this assurance (as Sheikh Saheb had preached for years) that democracy and freedom will flourish and people's self-determination will be respected. If democracy is murdered and pledges are cast to winds, how is it going to restore confidence in India? People have been let down and that is a hard fact. He is not referring to the loss of power. He is referring to this unconstitutional dismissal of a democratic government, to the arrest of its ministers and Prime Minister and others. He says that he had trumpeted throughout the world, even in the U.N. that democracy and people's freedom are safe in the hands of Indian Government. But 9th August exposed the farce. Surely Bakshi Ghulam Mohammed could not have done it by himself. Government of India pulled the wires.

Who behind 9th August coup

Evidence from quarters which are not friendly proves that Indian Government was behind the 9th August coup. Green light was given from Delhi on 9th August. And long before 9th August the ground was asked to be prepared for the coup of 9th August.

Mr. Panday : I don't, Sir...

Mr. Beg : The prosecution allege that loss of office and arrest were operating on Sheikh's mind and that must be taken as motive of conspiracy. But when I show that preparation for coup was made long before 9th August, when Sheikh Saheb was dismissed and arrested, the prosecution allegation is belied. The conspiracy was hatched by the other side. Prosecution says that Sheikh Saheb called Bakshi Ghulam Mohammed the "so-called

Prime Minister". He does not accept him as head of government and this shows his attitude etc. It is true that referring to Bakshi Saheb, Sheikh Saheb has said, "Jo apne ap ko Wazir-e-Azam kehlata hai". I cannot see any objection to this. It is a reminder to Bakshi Saheb of his great position.

"Jo apne aap ko wazir-e-azam kehlata hai. Wahan Hindustan ke kone kone men phira. Hindustan ka numainda Krishna Menon America men ja kar kehta hai jab sawal kiya jata hai ke Sheikh Abdullah ko giraftar kiyon kiya, woh intahai besharmi se kehte hain ki Sheikh Mohammed Abdullah ne bairooni mumalik se sazish ki thi."

Now, in this statement he tells Bakshi Ghulam Mohammed : "You call yourself Prime Minister and then allege that I had conspired with America". The allegation, being baseless, is contrasted with his high office. He implies that in view of Bakshi Saheb's high position, it is highly unbecoming of him to level such an untrue charge against Sheikh Saheb. It just does not befit him. The speaker does not say that he is not Prime Minister. On the contrary the emphasis is on the fact of his high office and the speaker argues it does not befit him to tell a lie. The rational conclusion is that the speaker emphasises that in view of his high office, it is very derogatory to make a false statement about the alleged American intrigue.

Is it befitting to tell a lie ?

"Main poochhna chahta hoon ki Gandhiji ka naam le kar woh thakte nahin. Main un doston se poochhna

chahta hoon ki Gandhiji ne kiya amanat aapke pas chhor rakhi hai? Gandhiji ne kaha ki sachai aur adam-e-tashaddud yih do cheezen hain jo main Hindustan ke liye bataur amanat chhorta hoon. Main Hindustan ke doston se poochhna chahta hoon ki kiya yahi sachai aur adam-e-tashaddud hai jiski mitti paleed Kashmir men ki gai?"

Please note that in the same context that Bakshi Ghulam Mohammed calls himself Prime Minister he refers to another gentleman who is mentioned here. Mr. Krishna Menon made a similar charge against Sheikh Saheb in the Security Council. The speaker asks (in the name of Gandhiji whose two legacies to India were truth and non violence) "Does it befit you to say that I conspired with America?" He just makes an appeal to them asking "Does it behove you as followers of Gandhiji who left behind the legacy of faith in truth, to level an absolutely false charge against me?" How is it treasonable? The statement is unexceptionable.

Gandhiji sacrifice reminder of Truth :

He still hopes to inspire some sense of justice for him. Here is hope still lingering in Sheikh Saheb's mind. He goes on to say :

"Is sachai aur adam-e-tashaddud ka satyanas kiya gaya. Ek aise insan ko jis ne apne bhaion ki izzat apne khoon se bachai. Jin ki chhati se hazar bar Jawaharlal Zindabad ke naare nikle the, unki wohi chhati golion se ohhalni ki gai aur phir woh sachai ka dawa dete hain aur phir kehte hain ki Sheikh Abdullah firqa-parast hai".

Sheikh Saheb says that people who shouted Jawaharlal and Gandhiji Zindabad were shot down. Prosecution inference is that this was intended to create hatred against India. The argument is most amazing. Their inference is not at all warranted by the context. The speaker emphasises Gandhiji's faith in truth and non-violence and draws the attention of the audience as much as of Mr. Menon and Bakshi Saheb to the faith. He says : "Gandhiji gave his life for upholding these ideals." A person who intends to create hatred against Gandhiji will not highlight that he shed his blood for upholding those high ideals of truth. Sheikh Saheb was reminding people that here was a man, head and shoulders above the common run of people who made history by sacrificing his life for the cause of communal harmony, for truth and non-violence.

Now, all the force of Sheikh Saheb's reasoning throughout these two pages is on the high principles taught by Gandhiji. It is abundantly clear that he does it with a view that his adversaries would follow the lessons taught by Gandhiji, have regard for truth and do not invent baseless charges like the American intrigue. He is just inspiring respect for truth as taught by Gandhiji and attempting that Mr. Menon and Bakshi Saheb follow in his footsteps. He appeals in the name of Gandhi. It is a torture of words to draw the inference that the speaker is thereby creating hatred against India.

We, your enemies baseless inference :

Again, he refers to people who were shot down in Kashmir and pin-points the fact that they were self-same people who shouted Jawaharlal Zindabad but against

whom misunderstandings have now been created in your mind. They were the self-same people who upheld Nehru's honour at a time when certain individuals (including some who now hold high offices in Kashmir) were sent to Uri to give a black flag demonstration to Pandit Nehru. He is reminding him that all that he has been told about us and our people that we are your enemies, is baseless. No, we are the self-same people who shouted Jawaharlal Zindabad.

Again, (I hope prosecution will not take this amiss) it is not correct for the prosecution to say that criticism of Panditji would mean to bring into contempt the Government of India. Panditji is neither Government of India nor India. Law requires something else. Sheikh Saheb has made profuse references to Panditji in these speeches. He has expressed his great regard, respect and gratitude for him and for what he has done. Even in his statement u/s 342 he said that he has faith in him. It is fantastic to allege he says that Sheikh Saheb is disrespectful, much less creating hatred, against him or his Government of India.

No ingredients for offence u/s 121-A.

Sir, there is a reference to this and the Constituent Assembly etc. in the speech. That is a subject calling for separate treatment. Mr. Pathak has referred to Delhi Agreement, to Article 370 and to the convocation of this Constituent Assembly. They cannot be brushed away by a mere observation. They are grave issues and cannot be so lightly dismissed. They have both legal, constitutional and historical aspects which forcefully bear on the issues involved in this case. There-

fore, I shall deal with them separately. Suffice it to say here that inferences that have been sought to be drawn by the prosecution are unwarranted. I am here commenting on the speech solely from the point of view of the allegation of intention to spread hatred. I shall show that even that is not borne out. From the contents of the speeches there is no indication of incitement to use criminal force to overthrow the government of the State of Jammu and Kashmir and annex it with Pakistan. There is not a single word available to justify that allegation. The speaker may be critical of Nehru, his old friend, or about Bakshi Ghulam Mohammed. That is a different matter. Mark his words : "Yih gile shikwe hain." There is nothing to justify even an inference for a prima facie case, that these speeches provide ingredients for the offence u/s 121-A.

Importance of official documents :—

Then he refers to the 1953 August joint communique of the two Prime Ministers.

"9 August ke do hafte baad Delhi men Pandit Jawaharlal Nehru aur Mohammed Ali ki ek conference hui. Usmen ek mushtarka elan hua jismen yih qarar diya gaya ki Kashmir ke awam hi Kashmir ka faisla kar sakte hain."

Mr. Pathak has said that communique is not before your honour and that is not relevant. Many things which are bitter and unpalatable to the prosecution are not relevant. While I was making the statement u/s 342, I was told that I should not refer to the government pronouncement, such as the joint communique and that

official documents could be referred to during the arguments. Now the prosecution are backing out, as usual. These official pronouncements are very relevant. On them my whole defence hinges. If you rule them out, better ask me to give no defence. They have become part of the issues involved in this case. They also show the mind behind the coup of 9th August. They are also relevant because the inferences drawn from the speech are unwarranted and I have a right to rebut that.

Re-pledged to uphold communal harmony :

Your honour kindly see 1½ pages after what I just now quoted from the speech :

“Kaha jata hai ki main mandiron ko mismar karke masjidon banana chahta hoon. Magar main unse kehna chahta hoon ki jab yahan par Hinduon aur Sikhon ki izzat wa aabroo khatre me thi isi Sheikh Abdullah ne apni jaan khatre men dalkar unki izzat-o-aabroo ko bachaya. Us waqt Hindu jati ke leader jo the ya woh Hindustan bhage the ya ghaaron men ghuse the. Hamare volunteer Hindu Sikhon ki hifazat karte the. Is waqt Hindustan ke akhbar walon ne mere khilaf jo propaganda kiya hai us men mere khayalat men koi faraq mahin paregi. Agar Khuda nakhawasta 1947 ke waqiat phir yahan ho jayen to Sheikh Abdullah barabar Hinduon aur Sikhon ki hifazat karega. Yahan ke Hinduon aur Sikhon ko barabar wohi haq yahan rehne ka hai jo yahan ke Musalmanon ko hai. Main ne yih baat is waqt tak sabit ki hai. Unki hifazat yahan har halat men hogi. Is ke baad bhi agar akhbar walon ko is men khushi hai, to main kiya kar sakta hoon ?”

Now, Sir, here is an irresistible proof of his bonafides. I cannot give a better material except from prosecution document, to negative the allegation of communal hatred and establish the outlook of Sheikh Saheb. He says I risked my life, which is a hard truth. Here I would not refer in detail to huge chunks of now Indian territories where Muslim minority was wiped off in 1947 and equal tragedies which happened in the areas which is now Pakistan. Where was the solitary exception? It was Kashmir province only. We had 3% minority community in Kashmir. We miraculously protected their honour, person and property in the critical days of 1947. I have said in detail in my written statement about the contribution in this behalf made by the accused persons standing in the dock—right from Sheikh Saheb down to the humblest of us standing here. To those historical events reference is made by Sheikh Saheb on 17th January. And he pledges himself to that policy again in the holy shrine of the Prophet of Islam. If we cannot still drive conviction, well, Sir, it reminds me of the story of proverbial wolf and lamb. We live by that conviction in human dignity because of the deepest faith. To quote an instance, in a 14,000 population of Anantnag there was one Sikh individual during that crisis of 1947. He felt far more secure amongst us than any one of us. However, if you don't like our face, that is a different matter. In this speech, Sheikh has made his mind abundantly clear on this point of communal harmony. Even after this if the prosecution persist that he is spreading communal hatred, then 'Khuda ke pas iska faisla ho sakta hai.'

"Agar un ko shaitan sawar hua hai, main kiya kar sakta hoon", Sheikh Saheb says. If you will disbelieve

whatever I speak in the shrine of the Prophet, that disbelief is the creation of a devil.

India's and Nehru's honour at stake :

“Jin logon ka pesha loot maar hai unko kehne se kuchh matlab nahin. Haqiqi zimmedari Hindustan par hai. Yahan par Hindustan ka fauj, Hindustan ka rupiya, Hindustan ka CRP hai, jinke pusht par yih ghoondagardi ho rahi hai. Is ki neknami ya badnami Hindustan par hai, Pandit Jawahar Lal Nehru par hai.”

Look at the context, the whole of it. “Uski izzat tamam duniya men hai. Yih log uske naam par dhabba dete hain”. Mr. Pathak did not choose to read those words :

“Police ka bara afsar jo hai woh Hindustan ka hai. Woh ek sharif admi hai, uspar ek bari zimmedari aayad hoti hai. Kashmir ke Musalman fitna-o-fasad ke haami nahin. Woh chahte hain ki is mulk ka faisla jald az jald ho. Woh baghi nahin hain, woh lutere nahin. Unhon ne lakhon rupiya nahin banwaye, woh sharab nahin peete hain.”

After making a complaint about the press people, he refers to ‘khoftan faqir’ and lawlessness in Kashmir. If you do not believe us, take up the papers of non-Muslims. What do they say : “Loot maar hai.” Anybody's house is raided, “goondagardi hai.” People coming to Sheikh Sahab are beaten, a photographer is beaten and put under Preventive Detention Act. Mr. Peshin, a respectable Kashmiri citizen was manhandled.

In this very document you will come across facts how C.R.P. molested people who were meeting Sheikh Saheb after his release. In the documents produced by P. Wa Shahbaz and Karnai, you will come across hundreds of petitions addressed to the Prime Minister of India about this lawlessness prevailing here. Kindly refer to that. And in the statement of the accused, my statement for example, I have given the picture of complete lawlessness prevailing in Kashmir. There is no rule of law in Kashmir. Your honour has that on record. Kindly see entries in the Plebiscite Front registers and the pamphlets which the prosecution has produced. Nobody's life is safe. Prosecution has produced tremendous material about that. All this is done with the backing of C. R. P. Sheikh Saheb himself has said that as he travelled from Kud to Verinag, C. R. P. was spread in every corner. They and the Peace Brigade are paid from the Indian money. Again, people think in Kashmir of Jawaharlal because he was associated with our movement. Now, if he allows the repressive forces like Ganderbali and the C.R.P., Interrogation Centres and intelligence people and others to strike terror in Kashmir, then result is obvious.

If Sheikh Saheb wished to spread hatred against Jawaharlal, would he say "Uski izzat tamam duniya men hai" ? If you want to judge Sheikh Saheb from his words, then please do it. "Yih log uske naam par dhabba hain". He says that this mal-administration and goondaism is a blot on his fair name, on the fair name of Jawaharlal Nehru. He names those persons who are responsible for defaming Panditji.

‘Police ka bara afsar.’ It is not treason to refer to a police officer. When you call his attention to grave responsibilities resting on his shoulders, you do not mean to spread hatred against him. You want to inspire him to the discharge of those responsibilities. When I say: “There are grave responsibilities on the shoulders of your honour”, it is just to indentify yourself with the greatness and then invite your attention to your obligations. So is Sheikh Saheb reminding the officers that the name of India and Panditji should not be defamed.

Muslims of Kashmir not rebels :

“Kashmir ke Musalman baghi nahin.” Kindly note those words: “We are not rebels.” Much could be read in those words if there was a desire. Panditji’s mind may have been poisoned against Muslims of Kashmir, misrepresentations may have been made against Muslims and in general. That is what Sheikh Saheb has in mind. Look at the emphasis.

Appeal, not hatred :

He warns that the policy of repression will lead to grave consequences. He appeals to Indian officials, including Mr. Mehra. You do not appeal to a person in whom you have no faith or for whom you have hatred. That is a simple principle of human psychology and nature.

Look at the anxiety and solicitude for the Indian honour and kindly note these words :

‘Yih log Hindustan ke liye ba’ ie-e-ruswai hain, Hindustan ko badnam karte hain. Main chahta hoon ki Hindustan ke jo afsar yahan par hain woh zimmedarana tariqe se apna kam karen. Agar woh samajhte hain ki woh majboor hain, to woh yah an se chale jayen’’

If they (the Indian officers) think that they have to carry out the policy of lawlessness or practice lawlessness then they should ask for transfers.

Pray ; God may bring them to right Path :

“Akhiri baat jo main ne aap se kehni hai, woh yih hai, ki aap is muqaddas dargah men hain Aapka rawaiya yih hona chahiye jo aisi halton men Hazrat Mohammed ne ikhtiar kiya tha. Aap ko maloom hai ki jab Hazrat Mohammed par aise halaat roonuma hue, jab Makka Sharif men un par tarah tarah ki museebaten nazil hueen, unke dushman unko nihayat takleef dete the. Jab woh unko haq ki baat kehte the to pathar uthate the. Woh sirf yih kehte the ki Khuda tala hamari qaum ko yih aqal de ki woh sahih raste par chalen.”

What is his final appeal ? Not to take arms, not to plant booby-traps, nor to throw hand-grenades. But to allow the path shown by the Prophet of Islam, with even those who inflict atrocities on you and even those who are tyrannical to you. Invoke God’s mercy for them and pray God may bring them to right path.

“Yih hamari mazloomiat ka waqat hai. Jis tarah Hazrat Mohammed ne mazloomiat ke waqat sabar se kam liya, usi tarah hamne bhi sabar se kam lena hai.”

Sir, then at the end :

“Is tarah unhon ne Makka ke logon se kaha ki agar tum mujhe ek haath men chaand rakhoge aur doosre men suraj rakhoge, phir bhi main apni rah se nahin hatoonga. Usi tarah aapko bhi rah-e-mustaqim par rehna chahiye. Jis tarah un par Madine ka zamana aya, us tarah ham par bhi aman ka zamana ayega.”

By following that path which the Prophet indicated, you will achieve peace and not by any other means.

“Aapko apna hausla buland rakhna chahiye. Himmat aur hausle se aage barhna chahiye aur azam karna chahiye ki tab tak ham peechhe nahin hatenge, jab tak ki ham apna haq ‘Sardari awam ka haq hai’ hasil na karenge.”

Effect of the Speech :

The immediate slogan given by the audience after his one or two hours’ speech is “Sher-e-Kashmir Zindabad”. No slogan against Bakshi and no slogan against India. Naturally, slogans shouted do make out the effect of speech on the audience. Even from that angle, the prosecution assertion is rebutted.

To sum up, there is no incitement to hatred, no advocacy of physical force or violence and no indication

to annex the State to Pakistan, no provocation of hatred against Government of India or Government of Jammu and Kashmir. There are no facts to support the ingredients of the offence. On the contrary peaceful methods are advocated, Hindu-Muslim-Sikh unity is emphasized. Throughout the speech use of moral weapon is urged. The weapons of war and destruction are condemned. .

I have done with this speech.

— X —

(B)

Exhibit 269/B/1—Speech dated 31st January 1958 :

Sir before break I dealt with the speech of 17th January 1958, as recorded by prosecution. Now, we are coming to a speech of which there is a tape record, which is dated 31st January 1958, ExP. 269/B/1. The distinguished counsel for prosecution lays special emphasis on the fact that there being a spool of this speech, it carries considerable importance in as much as according to him this was correct reproduction, complete and comprehensive.

Inaccuracy of tape record--Authority quoted :

Before the Court accepts that statement, I would draw your attention to the monumental authority of Wilson R. Harrison, Director, Home Office, Forensic Science Laboratory, Cardiff. He has written a book on "Suspect Documents and their Scientific Examination." This author has written this book based on the experience acquired during 24 years in "dealing with nearly 7000 cases etc. etc. which were submitted by police and various government offices to the Home Office, Forensic Science Laboratory, Cardiff, of which I am the Director since January 1938." It is a very important authority. I shall give a brief quotation from this authority under Chapter XII, captioned 'Preliminary Phases of Document Examination.' On page 428, author says :

"In connection with the use of a tape recorder it must not be assumed that what is reproduced from a tape is necessarily a complete and accurate record of what was said. Recordings from tape machines can be edited by deletion, addition or even alteration of sequence, by one who has some experience in these matters, and it may be a matter of extreme difficulty to discover, much less prove, that this has been done. Although it may sound incredible, it can be arranged that a considerably altered version of an interview can be played back from the actual tape which was used for initial recording. In spite of this possibility a tape recorder has a great deal to recommend it if its limitations are kept in mind."

Then he says in the foot-note that this observation is based on some case. "Subsequently a case where this was admitted to have been done was heard by Southwark County Court. This case was reported in the Solicitors Journal, Vol. 98, p. 794." So with this limitation your honour will approach the tape-recorded speech.

Tape records in Police—Possession :

You will also remember that after the speech was made, the tape-records were in police possession for years, not sealed or handed over to a Magistrate. Court will kindly also note in this context that Sheikh Saheb has said in regard to the tape record that there are distortions and the phrases are disjointed. Also, recall, as I pointed out yesterday, that the reporter Mr. Tikoo could not keep pace in the recording while Sheikh Saheb gave him a test speech here for recording. With this background, I take

up the speech, ExP. 269/B/1, delivered on 31st January 1958, by Sheikh Mohammed Abdullah, the accused.

Slogans indicate total effect of previous Speeches :

In the very beginning you have the slogans.

“Azad Rai Shumari Zindabad, Sher-e-Kashmir Zindabad. Yih mulk hamara hai, iska faisla ham karenge. Naara-e-Takbeer—Allah-o-Akbar. Naara-e-risalat-Ya Rasool Allah.”

These slogans are an indication of the mind of the audience. My argument is that the total effect and impression made on the public mind by the previous speeches is indicated by these slogans. What the audience expect to hear from the speaker is also indicated by the slogans. Both aspects of the matter conclusively show that the mind of the audience is concentrated on ‘Azad Rai Shumari’ and oneness of God and the Prophet of Islam. Be that as it may, there is no indication, whatever, in relation to the government, against the government, communal hatred, use of criminal force and the like, in these slogans.

Need of the day—Constant touch with the masses :

Sir, you may leave about 10 lines and then take up the paragraph. He starts with.

“Mere dost, hakimon aur doctron ne mashwara diya ki aaj bhi main aaraam karoon magar main ne yih

munasib nahin samjha. Is waqat halat aise nazuk hain ki mera awam se door rehna achha nahin."

As considerable misrepresentation and misunderstandings are created, so the speaker wants to remain in constant touch with the masses.

"Is mulk ke samne, awam ke samne zindgi aur maut ka sawal hai. Is waqat ek lambe waqat khamosh rehne ka natija yih niklega ki woh mukhtalif qismon ki afwah bazion ka shikar honge."

Resist rumour—mongering :

Now, once a chief justice remarked that Kashmir is a unique province in the circulation of rumours. Perhaps because for six months of winter we have no work to do, due to climatic reasons.

"To jawab sirf yahi tha ki akhbaron ke zariye mere khayalat aapke pas pahunch sakte. Jo yih subah va sham mukhtalif qism ke waswase, pareshani awam ke samne chhore jate hain. In ka jawab akhbaron ke zariya aap ke pas pahunchaya ja sakta".

He is commenting on rumour—mongering in public. The speaker wants to fight that; and nobody who is interested in creating chaos will fight rumours, will fight sensation-mongering amongst the people. It is a person interested in peace and tranquility who fights them.

Friendly Voices Stifled :

“Magar badqismati se akhbaron ki azadi jis ke liye ham 25 saal se jadd-o-jehd karte aye, maujooda waqat men woh azadi hasil karni namumkin bangai hai.”

Court will kindly recall that while making statement u/s 342, I gave a list of papers which were suppressed as they were suspected to be sympathetic towards us. Sheikh Saheb in one of his petitions pointed how friendly voice from the press was stifled. Those conditions continue in Kashmir. Surely it refers to political adversary. He refers even to them as friends and says that they can place their point of view before the public. They have resources, Information Department is at their beck and call. In Parliament voices are raised by opposition that the party in power uses radio and press for its own advantage.

“Woh mukhtalif tariqon se majboor kiye gaye, ya akbhar band karen ya akhbar ke samne mali mushkilaat chhor di gain.” •

I have informed your honour in my oral examination that securities were demanded from papers sympathetic to us. I have given instances.* The ruling party controls the radio.

*“ ‘Khalid-i-Jadid’ was edited by Kh. Sadruddin Mujahid who was the Field Publicity Officer in the State before 9th August 1953. In the 9th August haul up he was also sent to jail. After his release he sought Government’s permission to republish ‘Khalid-i-Jadid’. The Government demanded security from him and again sent

(Contd. to the next page)

Distortions on radio :

Distortions and untruths against us are broadcast from the radio.

“Woh aapko puri tarah ilm hai. Mujhe woh tashrih karne ki zarurat nahin. Iske alwa unke akhbar hain jin par ya to unka qabza najayaz hai ya woh unko mali imdad se apne qabze men rakhe hue hain.”

(Contd. from previous page)

him to jail. The only crime of Sadrudin Mujahid was that he did not bow down to the illegalities of the Bakshi Government and considered the accession as provisional. Only some news about the activities of the Plebiscite Front used to be published in ‘Khalid-i-Jadid’. Though there was nothing illegal in it, yet the Kashmir Government did not like it and made it a target of repression.

The ‘Sach’ of Jammu was published under the editorship of Master Roshan Lal, a refugee from Mirpur. Master Roshan Lal undertook this venture in memory of the distinguished patriot Raja Mohammed Akbar Khan, who had sacrificed his life in freedom movement. The only crime of Master Saheb was that he did not support the 9th August 1953 bloody drama and also published the statements of Mirza Ghulam Mohammed Beg in some special issues of his weekly which he had submitted to a commission appointed by the Government to inquire into the allegations against Mirza Ghulam Mohammed Beg and Mirza Ghulam Qadir Beg. The report of the commission had been suppressed by the Government. For these activities Master Roshan Lal had been detained many a time.

(Contd. to the next page)

In the present trial we have some liberty to present our side. This was not possible for the first 4½ years of our continued detention.

Terror and Tortures :

“Doosri taraf ham par pabandian hain. Pehle yih ki 4½ saal se barabar jinhon ne haq ki baat kahi who bila poochhe jail men band kiye gaye. Itna hi nahin balki unke bazoo, tangen tor di jati hain. Woh zibah khane men liye jate hain. Unki izzat aabroo khatre men daal di jati hai. Agar woh us se bach jaate the, woh jailon men band kiye jate the.”

(Contd. from previous page)

“‘Inquilab’ weekly was a popular paper in Kashmir and was published and edited by Mr. Atiqur Rahman Kidwai in Delhi. It used to expose the illegalities of the Kashmir Government, absence of civil liberties and goon-datism in the State. So naturally it was not palatable to the Kashmir Government. Hence entry of the paper was banned in Kashmir, thousands of its copies were illegally confiscated at Madhopur and a case was filed against the Editor in Delhi.

“Papers like ‘Siyasat-i-Jadid’, Kanpur, ‘Baibak’, Saharanpur, ‘Nai Duniya’, ‘Payam-i-Mashriq’ and ‘Astana’ of Delhi had exposed the injustices and illegalities committed on the Kashmiris and for this the editors had been subjected to terrorism. The editors of some were detained, some papers were banned and some were warned. Thus their voices had been suppressed.”

(From resume of Mirza Mohammed Afzal Beg's replies to questions under Sec. 342 Cr. P. C.)

Court will see that accused in their statements have related the same story. Prosecution documents produced either through Shahbaz or Karnai or Mirchal, P.Ws, relate the same stories of police terror and repression in detail. "Unki izzat-o-aabroo khatre men dal di jati hai". For that kindly refer to Mir Mohammed Nazir's written statement who discloses what was done to his children. Also, kindly read Kh. Ali Shah, G. M. Chikkan, Pir Abdul Ghani and Mir Mohammed Nazir's torture applications filed on 11th June, 1958, in your Court. Pir Mohammed Afzal Makhdoomi and others have related in their written statements and orally, fullest details of the atrocious activities conducted by C. I. A., Srinagar, the Kashmir Police and Peace Brigade. These are blood curdling stories. This state of affairs continues.

Preventive detention act :

"Agar woh us se bach jate the, woh jailon men band kiye jate the, na unki appeal thi na unki daleel thi".

That is the nature of Preventive Detention Act—there is neither appeal nor 'Dalil'. Sir, the executive does not depend on the findings of a court as to the grounds of detention. Mr. Pathak is not correct in saying that in Sheikh Saheb's time too there was Preventive Detention Act. Your honour will note that it is a mis-statement of facts. Even so, two wrongs do not make one right. There was then Public Security Act, I conceive, authorising maximum of two months' detention. But under the present Detention Act the period of detention was five years first; and now it is 10 years, without trial. Our cases were not ever reviewed to our knowledge. In my

own case I remember that the Government said in its order that 'the Government is pleased to extend detention.....' It is a pleasure for the Government to detain us.

Criticism of Executive action—no treason :

To revert to the speech :

“Yih hamari halat hai. Is halat men jo hamare mukhalif hain unko na sirf Kashmir men yih sahooleyat muyassar hain balki Hindustan men bhi woh sahooleyat muyassar hain jis se ki who duniya men hamare khilaf propaganda karte hain. In halat men sirf ek hi cheez hai ki main aapke samne aaoon”.

He is commenting on oppression and lack of freedom. Is he creating hatred against the Government, as the prosecution have drawn the conclusion ? If by the mere assertion that newspapers are being suppressed and restrictions are being placed on them, hatred against Government is created “to yih hakumat mashooq se bhi ziyada nazuk mizaj hai”. This, however, indicates the conditions we are living in. In Kashmir one is not allowed to utter a word of criticism. It is not tolerated. Here is my proof of allegation that there is no democracy in Kashmir.

In a democracy it will be fantastic nonsense to deny people the right to criticise restrictions on press and to distort such criticism to mean hatred ; then argue that it is hatred against the government and hence an attempt to overthrow the government. It is sheer nonsense.

Law permits comment & criticism :

According to law, as long as I do not advocate violence, I am free to comment and criticise the action of those who arbitrarily suppress freedom of press, whoever they may be. Under the Press Act it is the District Magistrate who gives licence and who permits Declaration. What Sheikh Saheb has said can at best be criticism of his action, his executive action. It is only justified and legitimate criticism of his action. But this is not tolerated in Kashmir and we are told that we have fundamental rights.

Revoke Preventive Detention Act Demand—An Offence !!

Then, the second charge of prosecution is that Sheikh Saheb wants the Preventive Detention Act to be repealed. This shows his state of mind. Suppose, some people in India want to revoke this Act and advocate its repeal, point out its bad points and mobilise public opinion, will the government disallow that ? In India, in and outside the Parliament, in press and from the platform, this Preventive Detention Act is condemned as a black law on the Statute Book.

Distinguishable features :

The Kashmir Detention Act is much blacker, more repressive and rigorous than the Indian one. One of the High Court judges said that the State Preventive Detention Act is harsher. It provides 10 years' detention here. There, after one year's detention the detenu must be released. Here Sheikh Saheb continued, in his first round, in detention for $4\frac{1}{2}$ years, Ghulam Mohd. Shah all

told got six years and Mohiuddin Karra Sahab put nearly six years and so on. We have reached nearly retirement age and still we are here.

Court : Ministers don't retire.

Mr. Beg : I am sure about Bakshi Ghulam Mohammed. If conditions continue, with this C.R.P. etc., he will never retire.

The High Court cannot go behind the satisfaction of the detaining authority. That is law. They cannot question the act of detention. No. And whereas in India there should be "reasonable ground" for detention, there is ground without reason here. You may not disclose the ground of detention even.

(‘Exchange between the Court and Mr. Beg regarding disclosure of grounds by the government under the Preventive Detention Act. Then Mr. Beg continues’).

The Government may or may not give the grounds in, what is called, the interests of the security of the State.

Denial of right of criticism is denial of democracy :

Now, Kashmir Preventive Detention Act is far more rigorous but that too is not my point. My point is, do you or do you not concede that a public worker has a right to comment on it? He is not even commenting but relating certain events. If you say that that will create hatred, hatred against the government, established by law, overthrow of the government, and annex the State with Pakistan, I can only say : You deny this right of

criticism, you deny the fundamental rights of democracy rather you betray democracy. It is being ruled under worst type of Martial Law with a camouflage of democracy.

Governance by democratic laws :

The speaker's criticism shows his state of mind. It shows that he does not like the people to be governed by repressive and abnormal laws. He likes the people to be governed by democracy and constitutional laws and rules. He likes them to be governed by judicial normal processes. Now, the Preventive Detention Act is not an instance of normal judicial process. It sidetracks and bye-passes judicial process.

Sir, here is Sheikh Saheb's latest Preventive Detention Order, 2nd para : "And whereas Government are satisfied...public interest". And this has been repeated in the case of everyone of us, that it is not in the interest of public to disclose the grounds. We do not know the grounds of detention. Never have the grounds been disclosed to us.

Governance by normal Judicial Process :

To revert to the point, that certainly shows that we want the people to be governed by normal judicial process of law, not by that which bye-passes it. Under the Preventive Detention Act government minister can order my detention without trial and just declare that he will not give out the grounds. This is atrocious, especially when you have a party government. In an autocratic government the minister was not a party man. But it is

dangerous in a democratic government where the ministers are party-men, to invest them with power of detention for ten years.

Black act torpedoes Judicial process :

Take only yesterday's instance. Three or four students were accused of attacking the Secretariat building on Maharaja Hari Singh's mourning day. They were arrested and prosecuted. The court granted them bail but the executive was offended. As soon as they came out of the court, they were served with Preventive Detention order. Pir Abdul Ghani, it is on record, was released by a writ of Habeas Corpus filed in the High Court on 28th April 1958. As soon as he left the jail gate, he was served with Preventive Detention order and taken back.

Mr. Nanda : Sir, it was reverse. He was released from the Preventive Detention.

Mr. Beg : The moment he was released, he was re-arrested under Preventive Detention Act. There was no Court warrant of arrest. These are the facts as I know them from Pir himself.

Court : I do not argue it now.....

Mr. Beg : We were arrested in pursuance of this Court's warrants. Several of us were already under detention.

Court : (Something regarding FIR 100)—

Mr. Beg : I will get the warrant here. Pir Abdul Ghani after the release on High Court's order continued

to be treated as a detenu under the Preventive Detention Act. The preventive detention orders were revoked in December 1958. Till then he continued to be under the Preventive Detention Act. Mr. Nanda might be correct in his own way. Fresh order of preventive detention was served on Pir Abdul Ghani. There are dozens of other cases and this is an unquestionable fact.

Mr. Ghulam Mohammed Chikkan was released in May 1955. Sir, the date was 2nd August 1955 when 10 detenus along with Mr. Chikkan and Gilani were released from the preventive detention in pursuance of the High Court order. An hour or so later fresh orders were served and all were re-arrested and detained. We are honour-bound to condemn these actions but it will be preposterous to object to that.

Court : What is the date of filing petition in the High Court ? (Re : Pir Abdul Ghani)

Mr. Beg: Some relatives of his filed the application. His brother filed it.

Court: Might be a little before April 1958 ?

Beg Saheb: May be, Sir,

Democratic, Constitutional means to educate public opinion :

Now, the speech shows how Sheikh Saheb's mind is working about these undemocratic practices. He is thinking absolutely on the lines of democracy and of constitutional ways and means. Prosecution alleges that mere mention of repression in connection with the Pre-

ventive Detention Act and arrests etc., was intended to create hatred against the government. Even fair and just criticism about the working of the Preventive Detention Act, which by-passes the judiciary and has armed the political executive with such despotic powers, is not at all creating hatred against the government. This is the only way left open in democracy, of telling the voters about the repressive nature of law and educating the public minds. It is a right and a duty. It is no offence. But in Kashmir even this is not allowed. The object is to stifle the voice of the people.

Followers of various religions—masters of this State :

Now, I will go ahead with speech, just where I left it :

“Meri taqrir muffasil nahin hogi. Aap dil-o-dimagh ko thanda rakh kar meri baat sunenge kiyonki is waqat aapke samne intihai nazuk marhala hai. Aap-ko achhi tarah samajhna chahiye aur matlab bhi achhi tarah samajhna taki ghalat-fahmi na ho. Is waqat jo pehli baat main ne aap se araz karni hai woh yih ki 1931 se khasoosan yahan ek tehrik chali ayi hai aur mukhtalif auqat par golian aur lathi-charge khaye, pet ke bal chalna para, Hari Kishan Kaul ka waqat dekha, Colvin ka zamana dekha, Thakur Kartar Singh aya magar woh apni tehrik barabar aage chalate gaye. Jis waqat tehrik wusa'at pakarti gai Muslim Conference National Conference men tabdil ho gai. Yahan ke rehne wale ghair Muslimon ko bhi hamne dawat di ki woh is tehrik men shamooliat karen taki

ham mushtarka taur is mulk ko azad karne ki koshish karne aur istahsali anasir aur shakhsi raaj se is mulk ko azad karen taki yahan ke log apne mustaqbil ko khud bana saken. Is 25 saalon men ham ne jo tehrik chalai, sainkaron bhai, boorhe, bache, aurtan shaheed hueen, kai bar mujhe jail jana para. Kiya yih sara kuchh bachchon ka khel tha? Akhir is ka maqsad kiya tha? Yih sab qurbani jo thi, barabar lathian khaeen, barabar golian khaeen, akhir is ka kiya matlab tha? Is ka wahid maqsad yih tha ki is mulk ke rehne walon ko haq tasleem kiye jaye ki woh khud is mulk ke mustaqbil bana aur bigar sakte hain, aur kisi ko ikhtiar nahin."

He is telling his audience that for 25 years they have braced bullets, faced incarcerations and suffered troubles and tribulations. For what purpose? For the ideal that you are the arbiters of your own fate and nobody else has the power to shape your destiny. Sovereignty vests in people.

Now, this is political education which no honest man in a democracy will object to. Even at the time of despotic rule in Kashmir it was not taken objection to. He says that followers of various religions are masters of this State. It rests with them to decide what system of administration they would like to have.

Support of Indian National Congress : publicly acknowledged.

"Is tehrik ka anjam jo hai woh "Kashmir chhor do" 1946 ki tehrik hai. Yih is darje par pahunchi. Yih jo hamara naara tha is maqsad men (is men mujhe

sharam nahin aati) All India National Congress Committee ki himayat hasil rahi."

' You don't create hatred against a party, gratitude for whom you acknowledge publicly i.e. the ruling party of India. He boldly says that Indian Congress helped and supported us in our solgan of 'Quit Kashmir'.

"Unhon ne is tehrik ki na sirf taeed hi ki balki jab 1946 se Pandit Jawaharlal Nehru, Khan Abdul Ghaffar Khan, ya Maulana Azad aye, unhon ne Sopore men ya aur kisi jagah, jahan kahin hamne apne matalbat dohraye, unki woh himayat karte rahe."

They are the top Congress leaders who supported our movement. You do not condemn the government of a party whose services to the people of Kashmir you so publicly acknowledge :

"1946 men jab main giraftar hua, mere khilaf muqadama chola. Usmen Asif Ali marhoom aur Pandit Jawaharlal Nehru ne meri wakalat ki balki Pandit Nehru mere liye giraftar bhi hue. Us muqadame men main ne safai men jo daleel pesh ki woh kitabi surat men shaya hui."

This your honour will find in our statements and in the statements of prosecution witnesses.

Nehru's Sacrifices for Kashmir acknowledged.

Sheikh Saheb acknowledges to this day Pandit Nehru's sacrifices to the freedom cause of Kashmir. Sheikh Saheb

is addressing this to lakhs of people in Srinagar. Now, if you want to create hatred, contempt against a party from which the present government is drawn, you do not have to say these things. On the contrary this speech will create respect and honour for the Congress leaders.

Community of outlook and ideals—Indian Congress:

You will kindly note this paragraph :

“Aur uske sar-e-warq Pandit Jawaharlal Nehru ne likha. Us men main ne saaf wazeh kiya hai ki is mulk ki qismat sirf yahan ke log hi bana sakte hain. Is had tak Congress ki tayeed rahi.”

He is explaining his close association with Congress. It was community of outlook and ideals that brought him close to the All-India Congress.

“Chunanche is silsile men woh kehte the ki yih haq sirf rajaon aur maharajaon ko hi hasil hai. Main ne uski mukhalfit ki aur Congress ke bare bare rahnumaon chahe woh Pandit Jawaharlal Nehru the, Rajagopalachari the ya Dr. Ambedkar the, un sab ne is ki tayeed ki yani mere saath ta'awun kiya.”

Mr. Rajagopalachari, a stalwart of the Congress organisation, Nehru, the life-breath of that organisation, and Dr. Ambedkar, leader of the scheduled castes, they, one and all, supported our ideal and ideology. Mention of these facts would uphold their honour, respect and dignity in the eyes of the speaker's audience. It is not calculated to create hatred.

Condemnation of raiders of 1947 :

“Lihaza yahi mere aur National Congress ke darmian hamrangi, hamare aur Congress ke darmian taluqat ki ba'is thi. 1947 men jab Hindustan taqseem hua, badqismati se qabailion ka is mulk par hamla hua.”

I do not know if this sentence was read by Mr. Pathak. Perhaps this might have been of some appeasement to the powers-that-be. Here Sheikh Saheb used the word 'hamla'.

“Unhon ne bazar-e-shamsheer woh haq ham se chheenana chaha jis haq ko hasil karne ke liye ham 25 saal se larte aye. Ham ne unka muqabila kiya. Aur jo hamare haq ki himayat karte the, unhon ne hamari imdad di.”

Now what more can he say than that they wanted to usurp our self-determination? If you are politically minded, if you are a democrat, you will at once realise that usurpation of self-determination is the greatest charge that can be levelled against anyone. Sheikh Saheb says outright that they came to usurp our right of self-determination. But by the very mention of self-determination, our friends here get scared away.

Your honour will note that one charge against Sheikh Saheb is that he has not talked adversely of events of 1947. Here he talks of that and his words are very strong for those who have respect for democracy and those who respect others' self-determination. “Unhon

ne madad ki" i.e. India. Again, "Unhon ne jo fauj bheji woh is buniad par thi ki jo hamara buniadi haq hai woh mehfooz rahe." That was aggression on our rights and Sheikh Saheb makes no secret of that. On the other hand India sent army according to Indian Government, to defend our right of self-determination and to hit back the raider. It is what Government of India have said repeatedly. What more acknowledgment of gratitude you want to have from Sheikh Saheb ?

Prosecution in search of material :

But with the powers that be the only desire is to prosecute Sheikh Saheb and his colleagues, and only crush the voice of self-determination. They would try to find some material for that.

"Cuhnanche aapko maloom hai ki doosre hi din Pandit Nehru ne All-India Radio par taqir ki. Us men unhon ne kaha ki ham is mulk men fauj qabza karne ke liye nahin bhejte hain. Wahan ke log janwar, bhed bakri nahin hain. Wahan ke 45 lakh insan azadana tariqe se is mulk ka faisla kar sakte hain. Chunanche woh elan maujood hai. Yih koi nai baat nahin hai. Iske baad mamla Security Council men pesh hua. Wahan Hindustan ke numaindon ne jo bayanat diye, chahe woh Sir Gopalaswami Aiyangar tha B. N. Rao ya aur koi tha ya idhar Hindustan men chahe Sardar Patel tha chahe Pandit Jawaharlal Nehru tha chahe aur koi."

I do not come across a word here, to which anybody can take any exception.

Historical fact no motive for conspiracy can be inferred.

Further on :

"Parliament ke andar tha ya bahar tha, taqirron men (United Nations) jo bayanat the woh record par hain. Hamesha unka yahi rawayya raha ki Kashmir ke awam hi Kashmir ke mustqabil ka hal dhoond sakte hain. Chunanche August 1953 men jab main giraftar hua, aapko yad hai Pakistan ka wazir-e-azam Delhi aya. Unhon ne Pandit Jawaharlal Nehru se baat cheet ki. Wazir-e-azam Pakistan aur Hindustan ke wazir-e-azam ne jo mushtarka bayan jari kiya, us men unhon ne yih elan kiya, unhon ne tasleem kiya ki riyasat Jammu va Kashmir ka faisla azadana rai shumari ke zariye hona chahiye. Woh elan maujood hai. Main us waqat jail men tha. Jo yih Bakhshi Ghulam Mohammed hai us waqat wazir-e-azam ke kursi par tha. Unhon ne bhi is elan ki tayeed ki."

You must give some credit for literary taste to Sheikh Saheb because the other language will be out of context here. Now, in this passage he says that our friends who are in office now also supported the joint declaration of August 1953 of the two Prime Ministers. It is a historical fact that Sheikh Saheb recounts. The two Prime Ministers met on 21st August and issued a joint communique. Now, Bakshi Ghulam Mohammed and Mr. Sadiq rushed to radio or press and said that Government of India had full consultation with them and the joint communique had their fullest backing. From this reference to the joint communique the prosecution came

straightaway to the conclusion that this provides motive for the conspiracy.

How can it provide a motive ? If I say that Bakshi Sahab and Sadiq Sahab support the communique of Prime Ministers of India and Pakistan, will that show any conspiracy ? That is a historical fact and there is no basis, even remotest, that any conspiracy can be inferred from this statement of Sheikh Sahab.

Declaration heralded by others—in case of Sheikh Sahab dubbed as conspiracy :

Now, then Sheikh Sahab ends with the expression : "Hamara gharaz yih hai ki is mulk ka faisla yahan ke logon ke hathon se hona chahiye," Kindly concentrate on the crux of it that the Prime Ministers of India and Pakistan declared that the only feasible way to settle the Kashmir accession is through plebiscite. Mr. Sadiq and Mr. Bakshi publicly endorse it. This, according to Mr. Pathak, is conspiracy by Sheikh Sahab.

Reference to conspiracy against him not an offence !

Sheikh Sahab goes on with his speech :

"Achanak 1953 men hamare khilaf ek sazish ki gai. Tehrik ke chalane wale jo tarazoo par na charh sake woh jailon men bheje gaye. Ek din pehle main wazir-e-azam tha. Doosre din aapko jab radio par maloom hua ki jail bheja gaya, un doston ne kiya kuchh aap se kaha, yih bhi aapko yaad hai."

This did happen suddenly. It is a narration of history. It is a hard fact that on 8th August 1953 he was the Prime Minister and after a few hours he was dismissed, arrested and sent to jail. There is no question of conspiracy here.

Further on about 1½ pages after this: "*Kal ka wazir-e-azam aj ka qedi.*" He refers to some other pamphlets. Sir, I have to draw your honour's attention to an important fact. If several people in different countries say that Pt. Jawaharlal Nehru was the President of Congress and also the Prime Minister of India, can it be logically inferred that there is conspiracy among those people? These are hard facts known to the world.

It is a well-known historical fact, known to India's friends and foes, that Sheikh Saheb was the Prime Minister on 8th August, dismissed, arrested and detained on the 9th. If somebody picks up his pen and writes it, that does not mean there is a conspiracy between him and us.

Kashmir international problem — interference tortuous :

I have told your honour previously, *Kashmir is an international problem*. Different individuals and statesmen have expressed their opinions on it. Some people know our views. I expressed the same in the Assembly. Those who like they take up those views and use them for their ends. Mr. Asoka Mehta, in Parliament, said: "Kashmir's soul is suffocated." Pakistan took it up and

broadcast it. It does not mean that Shri Mehta and Pakistan are in conspiracy. That inference is tortuous.

Why false propaganda ?

Then you may kindly read after 1½ pages :

“Akhir kiya mamla hai ki Sheikh Abdullah abhi giraftar hai ? Kiya wajah hai ki woh abhi jail men hai ? Unhon ne chillaya yih kiya wajah hai ? Yih log sharminda ho gaye, kehne lage ab kuch ho nahin sakta. Duniya men bhi iske khilaf awaz uthi hai. Lihaza woh majbooran riha karna hi parega. Unko khatra tha lihaza sochne lage ki akhir yih azad hoga, yih Hindustan jayega, akhir wahan par uske dost hain.”

If they do not see these things, how am I to blame ? He says that his friends are there in India.

“Yih log jo Gandhiji ka dum pakre hue hain, har roz Gandhiji ka naam pukarte hain, us Gandhiji ka naam jisne sachai ke waste apni chhati golion ke samne pesh ki. In Gandhiji ke pairuon se poochho ki unhon ne mere saath kiya kiya. Unko khatra hua ki jab yih awaz buland karega to unke paas koi jawab nahin. Lihaza mere riha hone se pehle ek programme tayyar kiya gaya. Akhbar wale, joenhi main riha hua, mere paas aye. Main ne unko bayan diya. Hindustan ke jo akhbari numainde the unhon ne mujhe firqa-parast tasawwur kar diya.”

He does not welcome that.

“Pehle mujhe samraji agent qarar diya ab mujhe firqa parast tassawwur karte hain. Main 4 5 din sochta raha. Woh kehne lage ki woh Hazratba! gaya.”

I will offer brief comment on this. Sheikh Saheb's continued detention without trial was embarrassing to India. The world press was critical and there was also reference in the Security Council. His continued detention without trial was open to criticism. To justify his detention and dismissal all lies were invented and circulated. He says that he will place his case before the Indian public. Sheikh Saheb indicates that his adversaries were afraid that there were friends of Sheikh Saheb in India who will listen to him. In that context he says that they cling to Gandhiji and exploit his name. He is again commenting on the untruth and untruth which will be disclosed to the friends in India.

Why poison Indian atmosphere ?

Such a great personality as Gandhiji who offered his life for upholding the truth, “Is that the truth that you have learnt from him?” asks Sheikh Saheb of those who spread the untruths. He says that he was depicted as a rabid communalist. Why? Again to poison the Indian atmosphere. Kindly concentrate on what he then says :

“Kiya main Hazratba! nahin masjid men jata ? Akhir men main kahan jata ? Kiya main bachcha naghma sunta ? Kiya main is tarah qaum parast banata ?”

To Press, not to Government :

Now, he is addressing some pressmen. He doesn't say that to Bakshi Ghulam Mohd. This is not about the Government or anybody else.

“Akhir men Hindustan ke akhbar walon ke samne qaum parasti ka kiya me'yar hai ? Kiya dargah jana, wahan par namaz parhna, wahan par naara-e-takbir ka naara dena firqa-parasti ki nishani hai ?”

He is commenting on the press.

“Akhir firqa parasti aur qaum parasti ka kiya me'yar hai ? Agar unka yih khayal hai ki Sheikh Mohammed Abdullah namaz na parhe, woh dargah na jaye, Quran Sharif na parhe, to phir aap saaf kahen ki Sheikh Abdullah ko chahiye ki woh Hindu bane phir main qaum parast banata. Sheikh Mohammed Abdullah us waqt qaum parast tha jab yih mulk tabahi ki halat men tha, jab yahan par Hinduon ko koi bachane wala nahin tha, jab unhon ne gharon men zehar rakha tha, us waqt yahan par Rasool Allah ka main ek gada tha jo unki hifazat karne ke liye aya. Us waqt jab main ne is aqaliyat ki hifazat ki jis waqt unke leader jo mujhe firqa parasti ka ilzam dete hain, ghaaron me chhupe the ya jo Jammu men bhed bakrion ki tarah Musalmanon ka qatal-o-gharat karte the, jinke haath abhi Musalmanon ke khoon se range hue hain, woh is waqt qaum parasti ke roop men Sheikh Abdullah ko firqa parast kehte hain, woh jo aaj Hindustan men jalos nikalte hain,

jinhen ne Gandhiji ki shahadat par mithai taqseem ki, woh qaum parast hain aur isi Hindustan men Sheikh Mohammed Abdullah firqa parast hai''.

This is the fact. This is an important passage. Mr. Pathak has highlighted it. He says this is a clever way of creating hatred. He says he is imputing things which nobody attributed to him. However, Mr. Pathak's inferences are unwarranted and they are hardly rational.

Alleged word does not exist :

The difference between the spool and the reporter's record is the word 'Dalle', occurs in the spool. We strongly condemn the imputation of this word to Sheikh Saheb. We have heard the tape record here. You were not here. When the record was played back, we did not hear this word. The tape-record does not contain that word. None of us heard this word. Moreover, Mr. Toshkhani has, as he himself admitted, altered words, added words and assumed words as he thought fit.

Court : Prof. Toshkhani perhaps said that wherever he did so, he had put a special mark.

Mr. Beg : Your honour will see that from his statement.

Court : According to his statement he has not made any addition.

Mr. Beg : It is a fact that he made addition of words. He does indicate that certain word should or should not be in Sheikh Saheb's speech. Again, your honour will

note that in the long-hand notes of the reporter, P.W. Shiv Nath Tikoo this word does not occur.

Court : If you carefully read this speech.....

Mr. Beg : Mentally I have not been able to fit in this word, Sir,

Court : We are not talking of mental things. It is in the pool language.

Court : By the way how many days the Defence is going to take for arguments ?

Sheikh Saheb : Mr. Beg is dealing with one speech a day. At that pace 5 speeches are left and there are letters, too. A week I should say.

Court : By that you will take one week more.

Mr. Beg : I can't say, Sir.

176. [The paper is a new discovery of a new kind of paper
which is not made of paper but of a different material.]

177. [The paper is a new discovery of a new kind of paper
which is not made of paper but of a different material.]

178. [The paper is a new discovery of a new kind of paper
which is not made of paper but of a different material.]

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184. [The paper is a new discovery of a new kind of paper
which is not made of paper but of a different material.]

185.

186.

CHAPTER III
Defence Arguments
(19th May 1961)

By

MIRZA MOHAMMED AFZAL BEG

On

Sheikh Mohammed Abdullah's Speech :

ExP. 269 /B/1

Dated 31st January 1958

(Contd. from Chapter II)

ExP. 269 /E/1

Dated 16th February 1958

CHAPTER III

(19th May 1961)

Sir, yesterday I was dealing with the speech delivered on 31.1.1958 at Hazartbal. I was in the midst of it when the Court rose for the day.

Benefit of conflict to accused :

Your honour will note that the argument was about the word which prosecution has taken exception to, which is not in the long hand. It is said that it is in the tape-record and transcription thereof. I have pointed out the defects of the transcription. The defects are partly introduced by the gentleman who transcribed it.

I have also pointed out how tape-recorder is undependable in the light of authority which I submitted before your honour yesterday. If in any two of the records of a speech, emanating from the same source, one does not record objectionable passage or word and the other does, then the benefit of the conflict in reporting will go to the accused, particularly in the light of defects that I have pointed out.

Derogatory language impossible :

Another important circumstance is to remember that the speech was delivered at Hazaratbal which is the sacred shrine of the Prophet of Islam, the highest person-

ality revered by Muslims and the most sacred shrine on the soil of Kashmir—a circumstance which completely rules out of the use of such language. Even the audience composed of various sections of different levels of social strata have nowhere, according to official report, shouted derogatory slogans. The learned speaker would much less do that, whose education and status are admitted.

Thirdly, when all is said and done, I speak with fullest responsibility that we hold our old comrades Bakshi Ghulam Mohd. and others in esteem as our old comrades and treat their children and kith and kin as our own children and kith and kin. It will be highly derogatory to attribute expressions like the one in question to any of us, more so to a personality like Sheikh Saheb. Your honour might have seen that whenever reference is made, memories of love and affection of old comradeship were revived and Sheikh Saheb referred to them in moving terms. It is not conceivable that an expression such as the one imputed to him could have been used. I therefore deny outright use of this expression.

I proceed, now with the speech : Sir,

“Unko khatra tha, lihaza sochne lage ki akhir yih azad hoga yih Hindustan jayega. Akbir wahan par uske dost hain.”

I underline the word ‘dost’ for reasons that it negatives the charge of the prosecution and this is used in all sincerity,

Rather expression of love for Gandhiji :

“Yih log Gandhiji ka dum parke hue hain.” The idiom ‘dum parkarna’ has been explained by the following: i.e. “They take shelter behind him and exploit his name, seek protection behind him.” Your honour knows Kashmiri. The speaker is commenting on their deeds. It is alright to use Gandhiji’s name, “Us Gandhiji ka naam jis ne sachai ke waste apni chhati golion ke samne pesh ki”. I point out that sentence, as expression of deep sentiments of the speaker. He emphasises his love and he is commenting in the context of false allegations brought against him. The context would be quite appropriate.

Conspiracy prior to release :

“Un Gandhiji ke pairuon se poochho ki unhon ne mere saath kiya. Unko khatra hua ki jab yih awaz buland karega to unke pass koi jawab nahin. Lihaza mere riha hone se pehle ek programme tayyar kiya gaya. Akhbar wale joonhi main riha hua mere pass aye, main ne unko bayan diya, Hindustan ke jo akhbari numainde the, unhon ne mujhe firqua parast tasawwur kar diya.”

He is referring to various accusations levelled against him.

“Main char panch din sochta raha. Woh kahne lage ki woh Hazratbal gaya”

Some newspapermen had charged him. It is a fact. 'Kiya main Hazratbal na jata ?' Now he is commenting on that accusation. He says that these charges have been levelled against him but in their own ranks, on the other hand, such things are going, as dancing etc.

"Kiya main is tarah qaum parasat banta ? Akhir men Hindustan ke akhbar walon ke samne qaum parasati ki kiya miyar hai ?"

He explained 'miyar' by quoting their own example, i.e. boy dancing. He asks "what is your criteria for secular mindedness". And questions :

"Kiya dargah jana, wahan par namaz parhna, wahan par naara-e-takbeer ka naara dena firqa-parasti ki nishani hai"?

Do you call this 'firqa parasti ?' I am sorry these words have been very badly twisted by the prosecution. Therefore, you have to look at every word. Of course, it is a figure of speech.

"Akhir firqa parasti aur qaum parasti ka kiya meyar hai ? Agar unka yih khayal hai ki Sheikh Mohd. Abdullah namaz na parhe, dargah na jaye, Quran Sharif na parhe, to phir aap saf kahen ki Sheikh Abdullah ko chahiye ki woh Hindu bane. Phir main qaum parast banta."

He is referring to such people, such newspapers particularly who bring charges of communalism against him and you cannot deny that there is a section of the people there who indulge in such allegations. It is not treason to answer them.

Secularism tested on touch—stone of history :

He is telling the masses that real secularism is freedom of conscience, of worship etc. Far from appreciating the fact that in India secular democracy was initiated at least with a view to give a complete freedom of conscience, this is made the basis of charge against him.

“Sheikh Mohammed Abdullah us waqat qaum parastha jab yih mulk tabahi ki halat men tha”.

His reference is to the crucial test that history put us to and asks the audience to judge him by that and not by the fact whether he goes to mosque or temple, whether he recites Quran or Gita or whether he attends Muslim festivals or other festivals and he invites the audience and critics to the one deciding criterion which should establish the secular character of a person.

“Jab yih mulk tabahi ki halat men tha, jab yahan par Hinduon ko koi bachane wala nahin tha. Jab unhone gharon men zahar rakha tha.”

When they had come to the point of committing suicide :

“Us waqat yahan par Rasool Allah ka main ek gada tha jo unki hifazat karne ke liye aya,”

reference to the Prophet of Islam is very pertinent. He recites this verse from his teaching and that can have the greatest influence on the Muslim minds, and so it had. He says a true follower of Prophet of Islam volunteered to protect their honour and life. Reference to Prophet of Islam is very pertinent and it is such a reference that goes deep into the minds of people in a sacred shrine.

When you go to the Temple of Lord Krishna you read from His teachings. The speaker goes on :

‘ Unki hifazat karne ke liye aya. Us waqat jab main ne is aqaliyat ki hifazat ki jis waqat unke leader jo mujhe firqa parasti ka ilzam dete hain, gharon me chhupe the.’

They had taken to hills and that too is a historical fact. There were quite a few in my house.

‘Ya jo Jammu men bhed bakrion ki tarah Musalmanon ka qatla-o-gharat karte the.’

In spite of that gravest provocation, i.e. slaughter of Muslims which was a very severe and crucial test at a moment of supreme crisis, as a follower of Mohammed the Great, he gave protection to the members of the community which was in minority. It is very unfortunate to misconstrue such reference to history as an attempt to provoke hatred and incite disorder. Neither the context nor the words justify such conclusion.

He says that at that time, as follower of the Prophet, I came forward to protect Hindu life and honour, even though exactly at the same time Hindu leaders had run away and Muslims were being slaughtered. At that moment of supreme crisis as a true follower of Mohammed he protected the life and honour of minority which was in danger.

Keep your heads cool :

This is exactly that millions of followers of Prophet must be told on this day that notwithstanding very great provocations they should keep their heads cool.

Whither inspiration against two nation theory ?

“Jinke haath abhi Musalmanon ke khoon se range hue hain woh is waqat qaum parasti ke roop men Sheikh Abdullah ko firqa parast kehte hain”.

Sir, a person, victim of character assassination, has been so maligned. He had risked his public position in 1938 while converting Muslim Conference into National Conference. He fought against the two-nation theory so boldly and at the time of crisis in 1947, he stood head and shoulders above communal bias. In that context Gandhiji had said that there was a ray of humanity shedding light from Himalayas.

Sheikh Saheb says, that he has inspired this ray from the Prophet of Islam; he tells his audience that that is the real teaching of Islam. He says that those from whose hands blood of Muslims is still dripping, they are telling him that he is communal, in the face of these facts.

Now, I strongly repudiate the inference drawn by the prosecution that by making mention of these things he intended to create disturbances. That is not what the context warrants.

Conduct at crucial moments—criteria for Judging persons :

The context says that critics have to judge him by his conduct at the crucial moments in Kashmir and when the Muslim sentiments were put to severest test by this incident. It is a hard fact that 28 tonga drivers had been done to death, who had brought refugees from

Kashmir to Jammu. He says even at that time we kept our heads cool. That is our secular creed.

He implies that it is not the test whether one goes to a mosque or temple. It is no test whether he offers prayers here or there. That is not the test to judge him by. It is an absolute untruth to allege that he is preaching communalism.

On the contrary, there is condemnation of communalism expressed in these words. The sense and purport of these words is that we protected non-Muslim minority and that we did it as humble followers of the Prophet.

Addressed to press correspondents :

This is addressed to some newspaper men. It is not addressed to anybody else. It is very unfortunate that in this country you cannot criticise particular newspaper editor or a columnist. If you do it, you will be run in for treason for this and that.

Who dubs Sheikh Saheb as Communalist ?

The second inference from this fact that it was a Muslim festival and Muslim shrine and therefore Sheikh Saheb exploited Muslim sentiments is equally incorrect. He gives them the gospel of Prophet of Islam which gospel teaches tolerance for non-Muslims.

It is true that certain sections celebrated Sheikh Saheb's down-fall who are the same "Jinhon ne Gandhiji ki shahadat par mithai taqseem ki woh qaum parast hain aur isi Hindustan men Sheikh Mohammed

Abdullah firqa parast hai''. One does not like to remind them of bitter facts. They were those who distributed sweets on Gandhiji's assassination. It was not Bakshi Ghulam Mohd. He was fighting the battle of freedom with us.

It does not, therefore, refer to him but to those who distributed sweets on the assassination of Gandhiji. He says look at the maligning of these people and what are their own deeds. A section of Congressmen might have forgotten it. Perhaps your honour will read something about it in the literature, in history, what was done after the assassination of Gandhiji and what did Sheikh Saheb and party do on that day. And it is those people who are dubbing him as communalist. I assert that these words strongly repudiate the charge of communalism.

'Aur agar yih qaum parasti ki me'yar hai Hindustan ke akhbar walon aur Hindustan ke leadron ke samne, to main is qaum parasti se (is paar) idhar hi hoon''.

Protecting minority, majority—Real Test of Secularism :

He says : "I do not agree with this type of 'qaum parasti' which is depicted by those people''. Then he explains :

"Mera, khayal hai ki quam parasti yih hai ki jab yahan ki aqaliyaton ka jaan-o-maal khatre men tha to main ne unki hifazat ke liye apna jaan-o-maal pesh kiya, magar jab yahan ki aksariyat ko khatra pahuncha hai to agar main unki hifazat karoon to fauran mujhe firqa parast kehte hain''.

It is a perverse sense of nationalism that if minority life and honour is in danger, I should protect them but when majority is in danger and I protect them, it should be called communalism.

He explained when the crucial time for minority came, he offered his life for them. Similarly if crucial time for majority comes, he should not be dubbed as a communalist for protecting them.

Now, no forceful preaching in favour of tolerance for various communities, and no more powerful sermon can be imagined than the one he gives to an audience which is most receptive.

Comment on individual Bakshi and not Govt. :

He says when the minority is in danger, offer your own life to protect it and if the majority is in danger, sacrifice your life to protect. That is as we have understood to be the principle of secularism.

That is real test.

“Aise qaum parast ek Bakshi nahin. Yahan aise bahut Bakshi ban sakte hain jo apna deen aur iman kuchh takon ke liye farokht karenge”.

He may be critical about Bakshi, that is no offence whatever. Bakshi is not Government of Jammu & Kashmir. The comment is on individual Bakshi and it would be travesty of fact to translate it as the Government of J & K.

“Jo apna deen aur iman kuchh takon ke liye farokht karenge”.

Now what is 'Iman'? It means "faith, belief". In the words of Bakshi Ghulam Mohd. his 6th "Iman" is faith in Sheikh Saheb. Sheikh Saheb goes on to say: "Ham se aisi tawwaqo na kijiye. Main ne Hindustan ka saath diya".

Agreement always bilateral :

Let us not wrench these sentences from the context. He refers to it in considerable complimentary sense.

"Main ne is liye Hindustan ka saath diya ki Hindustan ne hamari sachai ki himayat ki. Main ne Hindustan ka is liye saath diya".

You don't have to tell the people that 'unhon ne sachai ki himayat ki', if you intend to spread hatred.

"Kaha jata hai ki Sheikh Abdullah ne jo waede kiye the Hindustan ke saath, aaj Sheikh Abdullah un waedon se phir raha hai".

He says this is the charge against him.

"Sheikh Abdullah Musalman hai. Woh Quran par iman rakhta hai. Woh Quran jaane ke baghair hi Quran pesh nahin karega".

He knows Quran, he has read it and he understands it.

"Sheikh Abdullah jab Quran parhta hai woh janta hai ki Quran kiya hai, Quran ka falsafi kiya hai, uski taleem kiya hai. Woh janta hai ki Quran ka Khuda mujhe kiya kehta hai. Sheikh Abdullah ne beshak Hindustan ka saath diya tha lekin us ki buniyaden

theen. Waada yaktarfa nahin hota hai, woh do-tarfa hota hai. Agar woh kehte hain ki Sheikh Abdullah apne waadon par nahin raha, main Hindustan se kehta hoon ki woh kahan tak apne waadon par rahe. Woh tehqiqaat kare ki woh un waadon se tale ki main ?”

He is discussing a principle. An agreement is always bilateral. In case his adversaries allege that he has resiled, he asserts he has not backed out. But he questions : “I have a right to ask the promisee, ‘do you stick to your promise.’”

Why democratic ethics not for Kashmir ?

Let them make an enquiry if he has backed out or they have backed out. Who has backed out ? Of course he refers to an incident which has been very much ridiculed by the prosecution.

It is true that India depended on the provisional accession on Sheikh Saheb. He might have the same thing in mind.

Now it is a fact that unless green light was given by Delhi, Sheikh Saheb, the Prime Minister, could not have been arrested.

“Hindustan ne mujhe giraftar kiya, main ne Hindustan ko giraftar nahin kiya. Hindustan ko main ne goli nahin chalai”.

If Government of India had differences with Kerala government, whom they charged for subverting the Constitution, what did they do ? Not overthrow and arrest them. There were constitutional ways which

Government of India pursued in that case. Even though some in Kerala were accused of foreign allegiance, you did not arrest the chief minister there, you did not shoot the people there for demonstrating against the unconstitutional act, as you did in Kashmir.

You moved the provisions of the Constitution there. But in Kashmir, you subverted the Constitution completely and murdered democracy. He who has given his life for democracy has a right to ask this. Your honour will not call it treason. He is just arguing this fact :

If you had differences with the Prime Minister you could discuss it with him, or charge him as the Prime Minister of Kerala was charged for violating the Constitution. You had a soft corner for Constitution there.

If we tell you what you did in Kashmir, you have no legal answer, and no legal justification.

An outstanding leader on whom alone you depend for the accession of this State, you overthrow him overnight unconstitutionally and you shoot down innocent people who demonstrated against the dismissal. When he talks about it you say he is guilty of high treason. After all he is not like a piece of wood without feelings and sentiments. He is talking about these things. These things have happened. In Kashmir you quietly gave the green light from Delhi and did all that ; and when we talk, we are gagged and told that we are communalists, traitors and all that. You have violated the Constitution and you have killed the nascent democracy. One has a right to say what has happened in Kashmir since 1953.

Nehru's followers are today's victims :

I repudiate the inference that the idea of arrest has obsessed Sheikh Sahab's mind. It is contradicted by the contents of the speech. He says both as Prime Minister of the State and President of the mighty organisation, National Conference, we fought for freedom and against communalism, when most of the minority communities were against us. We were facing Maharaja's bullets in those days and they were basking in the sun of Maharaja's favours. One of them has become a great leader now. Have we not a right to say that ? Does he become a patriot and secular-minded because today he abuses Sheikh Sahab ? He is one who in 1946 led black-flag demonstration at Kohala and hooted down the would be Prime Minister of India.

Court : It is not on record.

Mr. Beg : I will show from the arguments, Sir. I shall start reading from Mr. Pathak.

Court : Yesterday you said that...

Mr. Beg : This is the greatest charge against Sheikh Sahab. I shall read from Mr. Pathak's arguments. I shall show Sir, how much he argued out of record.

Who is that gentleman who took black-flag demonstration against Pandit Jawaharlal Nehru ?

Court : I have said yesterday please confine yourself.....

Mr. Beg : I am entitled to equal justice. I shall show from record.....

Court : This is all right but see that it is.....

Mr. Beg : This is what the speaker is commenting upon :

“Hindustan ne mujhe girftar kiya, main ne Hindustan ko girafat nahin kiya. Hindustan ko main ne goli nahin chalai”.

He says that I did not betray India, I did not shoot at them.

“Magar Hindustan ne un par goli chalai jin ki zaban se hazaron bar Jawahar Lal Nehru zindabad ke naare nikalte the”.

It is a fact that all of them who fell to the bullets were in the ranks of those who were behind Jawaharlal Nehru. It is no treason to say that. They had not changed their ideology.

Right to Complain to a friend :

“Sheikh Mohd. Abdullah ne Jawaharlal ko Samraji agent nahin kaha, lekin Pandit Jawaharlal Nehru ne Sheikh Mohammed Abdullah ko samraji agent kaha”.

Now, Sheikh Mohd. Abdullah has been dubbed as a ‘samraji’ agent. He did not call Pt. Jawaharlal Samraji agent. Prime Minister has to bear this criticism. It is not against the government, nor is it treasonable. Sheikh Saheb was dubbed as an imperialist agent. This was done, I again say, not by Jawaharlal Nehru, but by those forces in Kashmir who staged the 9th August drama.

Sheikh Saheb has admitted that Panditji was Sheikh Saheb’s friend and a friend has a right to make a comp-

laint to a friend. To call Sheikh Saheb a communalist is really unwarranted, but still greater character assassination is to call him an imperialist agent.

Community of outlook since 1931 :

“Hamara aur Hindustan ka kiya ta’luq tha. Ta’luk yahi tha jo 1931 se lekar aaj tak ham kahte aaye hain ki ‘Sardari awam ka haq hai’.

This was the basis of our friendship since 1931, that there was a community of outlook which had cemented our friendship.

“Is ki tayeed bar bar Congress karta aya”.

Now, if your honour likes I will produce Congress resolution supporting that idea of people's sovereignty.

“Jab ham par woh haq kabhi Hari Singh cheenna chahta tha, kabhi aur koi cheenna chahta tha, Congress ne is haq ki hifazat ki.”

These words are very important.

He says that when Maharaja Hari Singh wanted to make an attack on that right of sovereignty or someone else wanted to commit aggression on the sovereignty of the people, it was the Congress who stood by us who protected it. This can hardly mean Sheikh Saheb is spreading hatred.

He is giving quite rational criticism. He highlights the services of Indian National Congress to the cause of the people of the State and nobody who would desire to create hatred against India Government would say these things. He is reminding his audience of the great services that Congress rendered.

Why deviated from Muslim League ?

At that time why did we differ from the Muslim League outlook ? Because Muslim League held that the rulers, and not the people were the sovereign. Congress said, 'No' to this. It held that sovereignty vests in people. It gave a fight to the rulers, to the princes and it even threatened British government, with boycott and other means if the British Government did not recognise the sovereignty of people against the despotic powers of a ruler. Muslim League took a different view and we were aligned with the Indian Congress because of that ideology and outlook.

Jawaharlalji himself and Mahatma Gandhi too have emphasised this basis of unity of outlook and this was the basis at one time, that worked as a cementing force. Sheikh Saheb has a right to remind the people and the audience of that basis.

Sheikh Abdullah's stand steadfast—no Change :

“Aaj Hindustan us haq se inkar karta hai. Aaj hamen khatam karne ki dhamki di jati hai. Sirf is liye ki Hindustan is haq se inkar karta hai”.

If India now says that it is not necessary that plebiscite should be held and denies the right of self-determination, a public worker who points out that deviation, warns that basis will be shaken.

“Is soorat mein Hindustan ke aur hamare ta'luqat kaise reh sakte hain, jis haq ke liye ham tamam zindagi bhar larte aaye hain, jis haq ke ta'eed ke liye Pandit Jawaharlal Nehru khud jail gaye”.

Again he points out :

“Jis haq ko bachane ke liye Hindustan ne apni faujen yahan is haq ko bachane ki koshish ki”.

He upholds that :

“Aaj agar Hindustan ka koi admi hamen woh haq dene se inkar karta hai, to ham unke dost kaise reh sakte hain?”.

He does not accuse the government ‘Haq dena se inkar karte hain’. If you knock off the basis of the sovereignty of the people then you knock off the basis of friendship.

“Sawal to yih hai ki dosti ya dushmani ka kuchh me’yar hota hai, buniaden hoti hain. Yad rakhiye, Sheikh Abdullah ko aap samraji agent kahen, Sheikh Abdullah ko aap firqa parast kahen ya aur kuchh kahen, un tamam baton se Sheikh Abdullah apne raste se bhatakne wala nahin”.

He says that he stands steadfast. He has not changed.

“Un tamam baton se Sheikh Abdullah apne raste se bhatakne wala nahin”.

Prosecution inference unwarranted :

I will remain steadfast and I will not change.

Now, from what I have read so far, Mr. Pathak’s inference is, “this is clear exhortation to sever relation with India or to cease being friends of India because

India has changed....." Sir, is this an exhortation? He says that if India shifts from her stand, certain consequences will follow. The prosecution inference is absolutely unwarranted especially in view of the words.

"Un tamam baton se Sheikh Abdullah apne raste se bhatakne wala nahin".

'I shall not deviate from my path. I will stand steadfast, Clearly, the inference is absolutely unwarranted.

To this day nobody can say that since I established for example, Plebiscite Front organisation, we have asked the people to vote one way or the other. We insist that people have the unfettered right to accede to India or to Pakistan—that exactly was Indian stand. Now this whole case against us is because of the conclusion Mr. Pathak has drawn. Whatever inference Mr. Pathak has drawn there is no criminal conspiracy and no idea to overthrow the government indicated by the speaker. The instant case is because of this inference which is obsessing their mind that there is a clear exhortation to sever relations with India. Now that is the crux of the matter. We do not mind whoever judges us, we want to highlight this obsession in the prosecutor's mind that we will not vote for India in plebiscite.

Case Manufactured because of Prosecution's obsession :

Therefore this case and all this evidence have been manufactured, this connection with Pakistan, this violence, these booby-traps etc. All this is the result of

this obsession in their minds. We have said let people be given the right to decide.

There is Political Conference which stands for vote for Pakistan. There are others who have published tremendous literature, like Pandit Prem Nath Bazaz that Kashmir's appropriate place is in Pakistan. You bring these allegations against us simply because about Sheikh Mohd. Abdullah you have preconceived notions that he will not ask the people to vote for India. Therefore you cook up this case of treason. Throughout their arguments they have given proof of this.

Another unwarranted prosecution inference is that by saying that the person for whom Kashmiris shouted slogans of 'Zindabad' has replied with bullets, has shot them down, feelings of repulsion will be created against India and Nehru. Now, the whole reasoning and the inference is absolutely unwarranted.

Our common sole aim—people's Sovereignty :

I have throughout pointed to your honour that Sheikh Saheb is applauding the great sacrifices made by Pt. Nehru for Kashmir's cause. He has publicly said repeatedly that he sent his troops to save the right of self-determination of the people of Kashmir and that he courted imprisonment himself to preserve that right. Sheikh Saheb is reminding his audience that he is the same gentleman, recalling his good deeds and sacrifices to the cause of Kashmir. It is wrong to say he is creating repulsion.

'Sheikh Abdullah jab kisi ko dost banata hai to ek hi me'yar hai, is dosti ka ki jo bhi shakhs, jo bhi

mulk hamare is buniadi haq ki himayat men ho, woh hamara dost hai”.

That is the basis, the community of outlook which bound them together. There are a number of countries in the Security Council who have supported this right.

“Jo aapka mukhalif ho hamara dushman hai. Sawal yih hai ki hamari dasti ka jo naap hai woh sirf ek hai, das bees naap nahin. Jo shakhs, jo mulk hamare is buniadi mutalbe aur haq ko tasleem karta hai, woh koi ho, mashriq men ho ya maghrib men he, shumbal men ho ja janoob men ho, woh hamara dost hai”.

This is the sole criterion of our friendship, he says and this is exactly the Congress ideology.

“Jo mulk is buniadi haq ki mukhalfat karta hai woh hamara hamsaya ho, woh mashriq men ho ya maghreb men ho, shumol men ho ya janoob me woh hamara dost nahin ban sakte hain”.

Mr. Pathak here did not say that India is one of these. It is a different matter you may say that there are difficulties in plebiscite and that we should look for an alternative, but people's will is the criterion. It is different if you offer to discuss with Sheikh Saheb the difficulties in holding an over-all plebiscite. But we must find out the will of the people. To deny that would be to knock off the basis of our common friendship; and whoever will deny that ‘woh dost nahin ban sakte’.

There is a long way between not being a friend and being an enemy. You cannot say that this will create

hatred and create hatred against the Government of the State or of India. Remember, Sir, Sheikh Saheb has previously said :

Not chattels :

“Aaj agar Hindustan ya Hindustan ka koi admi hamen woh haq dene se inkar karta hai to ham unke dost kaise reh sakte hain ?”

This refers to such a—

“Akhir men ham zindgi bhar is haq ko tasleem karne ke liye larte aye. Khud Hindustan kal hamara saath is haq ko hasil karne ke liye deta tha.”

Why ? Because we have fought throughout our life for preservation of this.

“Tamam duniya men Jawaharlal Nehru ne kaha ki Kashmiri bhed bakrian to nahin”.

Nehru had said that we are not cattle.

“Aaj kiya wajah hai ki aaj us buniadi haq se inkar kiya ja raha hai aur phir jab Sheikh Mohammed Abdullah uske khilaf ehtajaj karta hai”.

What is the reason that today right of self-determination is being denied ? And then he makes a protest against this attitude :

“To kabhi usko samraji agent kaha jata hai, kabhi firqa parast kaha jata hai. Is tarah yih mamla tai nahin ho sakta. Yih buniadi haq tasleem karna hi parega.”

If I make a protest then I become an imperialist agent and a communalist. You will have to accept this fundamental right.

Sheikh Abdullah is same as in 1947 :

“Ek Bakhshi kiya, lakhon bakhshion ko aap dastarbandi karen, kuchh nahin hoga. Is se yih masla aapko tasleem karna hi parega. Mainnen Hindustan ko bar bar kaha ki jo 1947 men Sheikh Abdullah tha, woh aaj bhi hai”.

Now what more proof you want to repudiate the charge that Sheikh Mohd. Abdullah changed in 1952. He makes this statement in the Holy shrine : ‘jo 1947 men tha woh aj bhi hai’.

Strange inferences to build up treason story :

Prosecution counsel has drawn strange inferences in order to involve us in treason against the government. He concludes what I just now read that ‘this means that J & K government which has to work out the constitution and being under the obligation to the constitution...is the enemy’. Constitution can be evolved without going into accession. You can have a constitution without bringing in the question of accession. Indian Constitution makes temporary provisions about Kashmir, because there is a principle of plebiscite accepted for the State.

Nobody is against drafting a provisional constitution pending the decision on accession. It has not been left in the hands of Constituent Assembly.

Moreover, it is addressed to India, to Indian leaders or to Jawaharlal Nehru in person. This thing has nothing to do with Bakshi Ghulam Mohd. and his government.

Pakistan—an obsession :

Prosecution also comments that as countries which support plebiscite are our friends, Pakistan supports it and therefore, Pakistan is friend. Now, if America supports plebiscite, does the prosecution thereby infer that we are for accession to America. Prosecution thinks of only one country as supporting plebiscite in Kashmir. It suffers from Pakistan-obsession. Who ever supports plebiscite, please compare what emphasis and stress India herself put on plebiscite from the very beginning.

Plebiscite means advocacy of peaceful method :

Again, suppose Sheikh Saheb's insistence on plebiscite means leading Kashmir to Pakistan, it automatically repudiates and excludes use of violence to overthrow the government of Jammu and Kashmir. If advocacy of plebiscite will lead people towards Pakistan it repudiates altogether the means of violence to be used for that purpose. Now, unwittingly, the counsel has exposed his client's mind. According to him, the fact that through a plebiscite people will be led towards Pakistan, proves the furtherance of the conspiracy. Plebiscite means advocacy of peaceful methods, not war, nor violence or booby traps and gun-cotton slabs. According to him peaceful plebiscite will lead Kashmir towards Pakistan. It is no offence. I tell you it establishes, Sir, beyond doubt that booby-traps, gun-cotton slabs, money, material is all concoction to cover that obsession that plebiscite will

take Kashmir to Pakistan. That is the motive behind this fabricated case. It is established from the very prosecution stand.

“Jo 1947 men Sheikh Abdullah tha woh aaj bhi hai”.

Question of human right and dignity :

This is very important.

“Ham insaniyat ki jang lar rahe hain”.

“Aur is men Hindu Musalman, Sikh, Isai ka sawal hi paida nahin hota. Jab main is haq ka mutalba karta hoon to woh Musalman ke liye nahin karta, balki yahan ke Hinduon ke liye bhi, Sikh, Isai aur Buddh ke liye bhi karta hoon”.

Now, here is the other thing which the counsel has wrenched away from the context ‘ki ham insaniyat ki jang lar rahe hain’. Sovereignty of people is a human right, a question of human dignity; ‘Aur is men Hindu, Musalman, Sikh, Isai ka sawal hi paida nahin hota’.

He repudiates the charge of any communal discrimination.

“Is bina par agar hamen firqa parast kaha jawe, to main kiya keh sakta hoon ? Bahar hal sawal yih hai ki in halaton men aapko kiya karna chahiye ?”
and this is very important.

“Aapko yih sochna chahiye. Tehrik ham ne uthai hai. Buniadi tehrik men qurbani ham ne di hai. Agar koi hamara saathi hamare mulk ka rehne wala bhai ham se agar bewafai kare, to ham kiya kar sakte hain ?”

He says, one of our brethren does not fall in line with us 'to ham kiya kar sakte hain'.

“Bahut se bhai aapko kehte hain ki Hindustan ek bada mulk hai, uske paas fauj hai, uske pass rupiya hai, uski falan mulk tayeed karta hai. falan mulk uska dost hai. Yih daleel is waste di jati hai ki aapka irada, aapka azam kamzor ho jaye,”

i. e. he does not depend on material power. He will depend on sovereignty of people, Gandhiji also did not depend on material forces to fight the British. He says reliance on material forces will weaken your determination to secure self-determination.

Karbala message of Sufferings for truth :

“Magar jo khuda aur khuda ke Rasool par yaqin rakhte hain, woh in duniawi taqaton se nahin darte hain. Woh na q jo hai woh to Karbala ke maidan men jis tarah Imam Hussain ne apna sab kuchh pesh kiya, lekin sachai ki alam ko buland rakha. Ek momin usi tarah apna sab kuchh pesh karta hai. Lekin Jhoot ke samne kabhi nahin jhukta hai”.

He refers to the tragedy of Karbala and says that Hazrat Hussain sacrificed everything, even his life, for truth. The tragedy of Karbala teaches us the lesson of complete sufferings and sacrifice for a right cause and not to accept untruth, as Hussain did not.

“Kiya yih zindgi hai ? Ham apne doston ko dikhana chahte hain ki sahi Musalman kisko kehtehain. Sahi Musalman woh hai jisko khuda aur Khuda ke Rasool par bharosa ho. Woh kisi duniawi taqat ke samne apna sar nahin jhukata”.

Faith in God and His Prophet and not the booby, traps and gun-cotton slabs will lead to the goal.

"Lihaza aap ka jo azam hai, aap ka jo yaqin hai, woh mazboot rahna chahiye",

put faith in your ideal, and not in material powers.

Ask Pakistan to clear area on other side of cease-fire line.

"Kal tak Hindustan hamare haq ka saath deta tha, magar badqismati se unke irade men kamzori aai"

The point is quite clear. It is not sign of strength to tell Pakistan to have the area on the other side of the cease-fire line,

"Aap apne musammim irade se unko kahiye ki ham yih kamzori aane nahin denge"

and have your own conviction and tell India, not be weak; do not negotiate on those terms. We can have the whole State, rejoin the partitioned and truncated area.

Want permanent settlement :

"Aapko yih haq akhir maan lena hi parega. Baqi Kashmir ka jo jhagra hai, 10 saal hue Hindustan, Pakistan aur yahan ke longon ke darmian jab tak yih jhagra tai nahin hota tab tak Kashmir ke log aram aur izzat ki zindgi nahin basar kar sakte hain."

Everybody demands it. As I have said in my statement our forests have been amputated, water resources and communications have been disrupted, homes have been divided, and mineral wealth has been divided and the whole State has been truncated. It is a big tragedy.

Two armies are there with their fingers on triggers. Fortunately Mr. Pathak does not live near cease-fire line. He would realise how uneasy we people are. We want this unfortunate dispute to be settled and settled in a way which can bring permanent peace. We are not the people who make hay while the sun shines and say 'dekha jayega'.

This is what Sheikh Saheb says.

"Agar Sheikh Abdullah ko sarhe chaar saal begunah jail men rakha gaya to aap soch sakte hain ki tamam logon ke saath kiya hoga".

If a Prime Minister like Sheikh Abdullah was put for 4½ years without trial in jail, he tells them what can happen to common man. He tells of conditions of insecurity. It is a misfortune that mainly our community—Muslim community—is the target. Otherwise, everybody realises the gravity. We are there facing the very mouths of guns at any moment. On the north another power is marching in and on this side armies are there. "Lihaza wahid hal hai ki yih jhagra khatam hona chahiye."

This is his insistence. Every patriot here would want that this dispute should end. We want to live peaceful life. We as public men cannot ignore it. We want permanent settlement and if a man of Sheikh Saheb's stature has used strong language to stress the need for early peaceful settlement, he is justified. If Kashmir continues to suffer uncertainty, future generations will condemn him. The situation may any day burst into a war. His forceful appeal for early settlement is under-

standable. He wants all Kashmiris to live a life of honour and peace.

Addresses India—Not Pakistan :

He says :

“Baz Hindu ya Hindustani dost kehte hain ki usne Pakistan ke mutaliq kuchh nahin kaha. Unka khayal hai ki Sheikh Abdullah ke pass galion ke bare thaile hain aur woh Pakistan par phenk dega.”

He does not want to unleash instrument of cold war.

India Government gave him the promise, the Government of Pakistan did not give him any promise. He did say that I will take people to India through plebiscite. He therefore, addresses India. India alone can effect settlement. We are certain that India can mobilise world opinion and ask for withdrawal of Pakistan troops from Kashmir and then hold an early plebiscite. But does she want that ? Then second part of the cease-fire agreement will become operative and India is afraid of plebiscite. And there is the rub.

No cold war but Indo-Pak cordial relations :

Now, if a public man of the stature of Sheikh Saheb says that the present uncertainty and insecurity is like the sword of Damocles hanging on the heads of the people he is not advocating violence. He is advocating the cause of peace.

“Main kiya galion ke liye hoon ? Sheikh Abdullah galion ke liye nahin’. Then he sums up. “Galion se yih masle hal nahin ho sakte. Ham ne koshish

karni hai ki agar taluqat kasheeda hain woh behtar ho jayen. Jab Hindustan aur Pakistan ke taluqat behtar ho jayenge, isi men hamara nijat hai. Hamara hi nahin, balki jitni der Hindustan aur Pakistan ke taluqat kasheeda rahen, tab tak tamam Asia ke mumalik ki halat khatre men hai."

He is fighting cold war, the man who is being prosecuted for high treason. This is what Panditji only yesterday said while addressing the cultural delegation from Pakistan. He made an appeal to do nothing which will create tension and help cold war. All questions, he said, should be peacefully settled. "Taluqat kasheeda hain, woh behtar ho jayen."

As long as there is tension, as long as the relations remain strained, peace of the whole continent of Asia is in jeopardy. It is very true that unless disputes between India and Pakistan are settled peacefully, international peace itself may be in danger.

That is the opinion of the Security Council, that is the opinion of world statesmen that these two important neighbours must peacefully settle their disputes. It is a pity that one who advocates this in Kashmir, he is prosecuted for treason, because it is apprehended that peaceful plebiscite will take Kashmir to Pakistan and that verdict of people will be against India. We are suffering because of that—hence this baseless charge to overthrow the State government. Here is the peaceful intention of the speaker ;

"Kashmir ki yih halat Hindustan aur Pakistan donon ke liye khatre ka ba'is hai. Har kisi muhibbe watan

ki yahi khawahish honi chahiye ki yih masla sulah aur ashti se hal ho jaye. Yahi is jhagre ka wahid hal hai. Yih hal bazar-e-shamsheer nahin ho sakta. Hamen is bat se dilchaspi nahin ki kis ko woh hakumat denge. Mujhe yih dilchaspi nahin ki woh Sheikh Abdullah ko firqa parast kahen, ya samraji agent. Meri dilchaspi sirf yih hai ki masle ka hal jald az-jal ho. Is men mujhe yaqin hai ki har ek muhibb-e-watan ki tayeed honi chahiye."

He re-emphasises that this unsettled Kashmir dispute is a perpetual danger for India and Pakistan both.

Every patriot must cherish the desire that friendship and amity should be the means to settle this dispute, not the booby-traps, not the gun-cotton slabs. That is the only solution—friendship and amity. He rules out decision by sword or violence.

Who in office—immaterial :

He rules out altogether the very thought of holding office or who gets into the government and who forms the government. It is unfortunate to accuse him that he is thinking of having lost chair. "I am not worried that they call me communalist or imperialist agent, baseless though these charges are. My sole concern is that this dispute must be quickly settled." He is sure of the fact that every patriot will support this.

"Aur agar koi is ki tayeed nahin karega woh wohi insan ya jamaat hai jo is jhagre se rupiya kamana chahta hai."

Which is a hard fact.

Non-representative character :

Sir, this is the crux of his speech.

“Wahan se karoron rupiya laen aur yahan kharach karen aur unke ‘pachh daar’ akhbar wale jo hain woh bhi chahte hain ki jhagra khatam na ho jaye.”

‘Pachh Dar’ is one who professes to be the mouthpiece or a spokesman whereas actually he is not i. e. people who do not represent any public opinion. Certain newspapers do not represent any public opinion. Some people may have no representative character. I hope, that is not an abuse.

Appeal to critics—no treason :

“Main un nau-jawanon se kehta hoon jo yahan se Hindustan khabren bhejte hain, woh ghalat report duniya ke samne chand takon ke iwaz pesh karte hain, woh sahi maanon men qaum aur mulk ki khidmat nahin karte hain,”

In the name of service to the country he is appealing to them.

“Magar is men ham kiya kar sakte hain ? Iman bakhshna aur na bakhshna Khuda tala par hai. Main kiya kuchh kar sakta hoon ?”

I do not think that is treason. ‘Main kiya kuchh kar sakta hoon.’

Panditji has hundreds of times said that these communal bodies will ruin India.

“Aaj Pandit Jawaharlal Nehru ko meri dobara giraftari ke liye mashwara dete hain. 9 August 1953 se pehle bhi Hindu Mahasabha ne meri giraftari ka mutalba kiya tha.”

If necessary we will produce newspapers.

Emphasis on self-determination :

“Sheikh Abdullah giraftari se nahin darta hai. Jab tak Sheikh Abdullah ki ragon men khoon daura karta hai, jab tak Sheikh Abdullah zinda hai, woh is haq ke liye barabar larta rahega.”

He will continue his fight for the right of self determination.

“Kuchh bhi ho is buniadi cheez ke liye, jis ke liye main ne zindgi ka bahut bara hissa sarf kiya hai, is men kisi surat men koi samjhauta nahin ho sakta. Bakhshi Ghulam Mohammed ghar baith kar is ka faisla nahin kar sakta.”

He is emphasizing the right of self-determination.

“Sheikh Abdullah yahan ho ya jail khane men ho, woh Bahu ke qile men ho, jahan bhi ho, wahan se yih awaz tamam Jammu va Kashmir men gocn-jegi—Yih mulk hamara hai, iska faisla ham karenge.”

Now, the whole emphasis is on the right of self-determination.

Reminder to Sadiq :

“Ghulam Mohd. Sadiq ab nahin keh sakta hai ki rai shumari ab purani cheez ho gai hai, jo log 1953 tak

hamare saathi the woh ab kehte hain ki yih faisla hua hai, ab yih purana cheez hai. Woh khud hi leader bane hain, unko logon ke dil tatolne chahiye, unki khawahish kiya hai. Woh haq jiske liye ham ne hazaron janen di theen, us se ham dast bardar nahin ho sakte."

You are honour-bound to represent people's view and they want to exercise the right of self-determination. This is all that is contained in this speech.

Fallacious inference :

Now, Sir, one of the objections is that the speaker would not hurl abuses on Pakistan. He was conscious of the fact that abuses will not pay. He says I have no abuses. Mr. Pathak draws the inference that by his refusal to criticise or abuse Pakistan, his abuses are indirectly for India. This is not rational inference.

It is very fallacious, I respectfully say. Sheikh Saheb says that everyone should support his claim for the people's right of self-determination. Again, the prosecution alleges that Sheikh Saheb says that everyone should support his claim and he who does not do so, is his enemy. This is quite unwarranted.

Sheikh Saheb makes an appeal to every patriot to support his stand and those who do not, they are left out. The inference is not rational.

Emphasis on rule of law :

There is no incitement to break law and order.

Throughout the speech he has preached : Have faith in God, do not depend on material resources and do not depend on 'fauj'.

The prosecution have argued that the speaker talked about lawlessness. He has said that there is no law and order. The result will be that the people will start feeling that there is no law and order and might commit disorder and lawlessness. That is again very great torture on words.

If I say that there is goondagardi, police is raiding our houses and people are arrested and put behind bars without any reason or rhyme, the greatest emphasis is to inspire respect for the rule of law and not to invite people to break law.

Main inferences from the speech :

The speech can justify only two inferences :

(1) to emphasise on the mind of authority responsible for maintenance of law and order to have respect for law and order and to restore law and order.

(2) to impress on the audience that since there is no rule of law, they will be hauled up for anything. Impression on them will be to be cautious even about their ordinary peaceful activities and to avoid all lawlessness.

Other inferences which the counsel has sought to draw are unwarranted. Sheikh Saheb's speech is all throughout a sermon on spiritual and moral force. He has condemned dependence on 'fauj', police, money and such other material forces.

He has insisted on people to have faith in God.

He has strongly demanded exercise of right of self-determination which is the only peaceful method of sett-

ling the dispute. Such method excludes friction and possibility of armed conflicts and violence.

He has appealed to every patriot to be conscious of the fact that a peaceful settlement alone can ensure peace and progress for Kashmiris, and establish once for all friendship and amity between India and Pakistan.

He has warned, no doubt, as a responsible public man, that continued friction will jeopardize the peace of the world.

There is nothing to support commission of any offence in the speech ; nothing indicating the ingredients of offence u/s 121A, even in a remotest way.

I want to point out that prosecution have given a strong indication of the mind of their clients that our crime is this insistence on self-determination and plebiscite, in which they are afraid that vote will go to Pakistan. That is why they persecute those who demand right of self-determination.

(*Recess*)

(B)

ExP. 269/E/1—Speech dated 16.2.58 on the occasion of Meraj-e-Alam :

Your honour, I shall take the next speech delivered on 16th February, 1958, ExP. 269/E/1.

To introduce the topic, this speech relates to the famous Muslim festival known as "Meraj-e-Alam". It relates to the sacred occurrence of 'Meraj' which is connected with the faith of Muslims and which finds mention in the Holy Book. On this occasion Muslims of Kashmir assemble in Hazratbal where the sacred relic hair of the Prophet is preserved. Appropriately, therefore, the speaker, Sheikh Mohd. Abdullah, accused, has addressed the audience on the philosophy behind 'Meraj'. Your honour will see that the spirit of 'Meraj' and the philosophy behind it permeates throughout the speech.

Slogans do not indicate violent mood. :

With these remarks, I proceed to deal with the contents of the speech, inviting first of all your attention to the slogans mentioned in the appended note by the reporter.

The slogans are : "Sher-e-Kashmir Zindabad. Nara-e-Takbir Allah-o-Akbar. Yih mulk hamara hai iska faisla ham karenge, Hamara leader Sher-e-Kashmir. 'Azad Rai Shumari Zindabad'."

Kindly note no derogatory slogan has been shouted and that no slogan gives any indication of the mind of the people that they were in any violent mood.

Reference to victimisation of Mutwalli !

Now , about the opening paragraph : there is absolutely nothing except a reference to Prophet of Islam. I do not know if your honour will note that the first portion relates to a speech allegedly having been made by Kh. Abdul Rahim Banday, who is the Mutwalli and Sajjada-nashin of Dargah-e-Sharif. He has been as usual offering prayers for the long life of Sheikh Saheb during his incarceration and for the welfare and long life of others detained.

Sheikh Saheb reorganised the management of that shrine and reconstructed large buildings for the proper management of Waqf property. He gave order to things there and his name is commemorated by the Mutwalli. Certainly that gentleman has nothing to do with politics and Sheikh Saheb as a regular goer to that shrine is remembered by Mutwalli of that Ziarat. Kh. Abdul Rahim Banday suffered subsequently incarceration for this. Of course, he was acquitted but he suffered. The first topic relates to him.

Analysis of man as component of two parts :

After that Sheikh Saheb started his speech and his opening paragraph about the speech relates to analysis of man as component of two parts—one spiritual, the other physical. He says that human being is made up of two sides—two parts—one is body, the other spirit. He refers to a constant friction between the two aspects of man. He mentions that the bodily desire is for bodily convenience, for bodily amenities or physical comforts. On the contrary the urge of the spirit is to rise above these physical comforts and soar the solar heights towards Almighty.

Meaning of 'Miraj' :

He points out that one who succumbs to physical cravings, he degrades his mind. But one who rises above this, his soul and spirit rise higher. Ultimately, in this process the individual rises to such heights that the spirit gains salvation with God. But there is only one means to achieve this and that is constant 'Riyazat' and 'Ibadat'—service and prayers to God. If through continuous and constant meditation and service, (in the English sense of the word) before Almighty God, one's soul becomes purified, he becomes one with God. The speaker says this is 'Meraj'. This is your highest ascendancy spiritually. He then comments that when you reach that stage, God's manifestations are revealed to you. At that stage 'yih ek jauhar ban jata hai'.

Now he preaches this to the people in order to purify themselves, that being the only way to attain godliness.

No hatred, no contempt, no violence :

To cut the story short here, this, your honour will see, is the spirit that runs through this speech and which completely refutes the charge of hatred, the charge of contempt against whomsoever and the charge of violence.

Man—manifestation of God :

About a page letter :

"Insan ke zariye tamam makhloqat men, insan ke zariye Khuda tala ne apna zahur duniya ke samne rakha. Baqi kisi makhlooq ya farishte ko is baat ki salahiyat nahin hai."

Preaching human dignity, Sheikh Saheb says that man is even above the angels because God manifested

Himself through man; and that is I think common to all religions which believe that man is manifestation of God, irrespective of sectarianism and other narrow divisions. He emphasises that man is even above an angel.

Then he goes on to say. "Lakhon paighambaron ne elan kiya." He says that various Prophets came to various tribes, reformers came to various tribes in various countries, but they were for a particular nationality. Prophet Mohammed was for the whole universe. This is the central point of his theme. It shows that he believes in the oneness of mankind, irrespective of sects, creed or race. Again, it would be wrong, in the light of the gospel, to say that he was spreading hatred or contempt between various classes.

About 3 pages after this, please read :

"Khuda tala ne jab apne mehboob ko apne qareeb kiya, wahan par unhon ne parwardigar ke bare bare ajaibaat dekhe, unka mushahida kis tarah kiya, kiyonki ham gunahgar admi jab ajee-o-gharib cheezen dekhte hain, ham pareshan hote hain. Us taraf ko dekhne lagte hain. Magar jo kamil aur mukammil insan hote hain us ne apne jism aur rooh par poora control kiya hota hai."

The perfection of man, Sheikh Saheb preaches down to the audience, lies in his complete control of his elements, "jisam aur rooh par poora control kiya hota hai."

Prophet's life quoted to emphasise discipline and orderliness :

Now, in that light of religious gospel, this teaching would bring home to the people a complete sense of dis-

cipline and orderliness, not chaos and disorderliness. Exemplifying as he does, this from the life of the Prophet, it is intended to enjoin on the audience to abstain from chaos and disorderliness, mental indiscipline and the like. He calls this perfection to which a man can reach and for which he must try.

Then, about a page thereafter, he cites from the Holy Quran :

“Ya Rasool Allah, Khuda tala farmate hain, un logon ku bulao, kaho ai logo, agar aap Allah tala ke piyare banana chahte hain to aap ko chahiye ki Rasool Allah ke irshadat par amal karo. Jo kuchh Rasool Allah aap ke pass amanat lekar aye hain, jis tarah unhon ne apni zindagi Khudai qalib men dali, usi tarah aap ko bhi apni zindagi is qalib men dalni chahiye. Aap unki farmanbardari karen, aap unki hidayat par amal karen. Phir aap Khuda tala ke mehboob qarar diye ja sakoge.”

I have told you already what was Prophet's 'irshad'-orderliness, discipline : 'jism aur rooh par poora control'. He says, quoting from Quran, "Zamin men fasad mat phailao."

"Verily, God does not like those who create disorder." That is intentionally suppressed in the reporting. We were promised that Maulvi Qureshi will come to reproduce and translate the Arabic text. But he was not brought.

“Ya Rasool Allah, Khuda tala farmate hain, un logon ko bulao, kaho ai logo, agar aap Allah tala ke piyare banana chahte hain to aap ko chahiye ki Rasool Allah ke irshadat par amal karo. Jo kuchh Rasool

Allah aap ke pass amanat lekar aye hain, jis tarah unhon ne apni zindagi Khudai qalib men dali, usi tarah aap ko bhi apni zindagi is qalib men dalni chahiye."

"Agar woh duniya men aur unke deen-e-duniya men surkhroo hon to unke liye ek hi surat hai, woh yih ki woh janab Mohammed Mustafa ki hidayat par amal karen."

Meditation and prayers—Gift of meraj :

Thus he enjoins on his audience to follow the path of the Prophet. Then he talks about 'Meraj' which Prophet of Islam had. Kindly leave out one page. Then he refers to 'behtrin tohfa' which Prophet brought down to mankind. 'Woh kiya tha ?' That is meditation and prayers five times a day before the Almighty. This is the teaching that has come down through centuries to Muslims, that that is the only gift God has sent to mankind through Prophet—5 prayers a day as the way of salvation or 'Meraj'. Prayers, not disputes, nor conflicts and clashes and not chaos and disorder, is the only way to salvation. In the light of this basic faith, you can imagine what we think of those who are possessed with the idea of creating disorder and lawlessness, of using violence to overthrow a government. The speaker will not preach that. Then your honour may leave about 6/7 lines.

"Aur rooh Khuda ka qurab chahta hai. Khuda tala ke nek bande apni ibadat aur riyazat se jism ko rooh ke tabe karte hain."

Here is that denunciation almost of all material resources.

"Insan apni nafsani khawabishat par sirf namaz se hi ghalib ata hai."

And to reach that stage only way is prayer to God, not a booby-trap or gun-cotton slab. "Yih nafas-e-amara ki lagam hai." That the prayer is the only control, check, over your greedy self which derails you from the path of righteousness. "Nafas-e-amara insan ke dil men bahut bara dushman hai". Now, greed which gives birth to contempt, hatred, bitterness, is the worst enemy of man.

Prayer to save man from derailment :

"Main ne pehle doston se kaha ki agar hamare kai doston ne ghalat rasta ikhtiar kiya jinhon ne hamare dosh badosh yih larai lari, unko jo yih rohani bimari nazil hui, uski kiya wajah thi."

It is quite clear.

"Uski wajjah yih thi ki unhon ne nafs-e-amara ko khula chhora. Woh chahte the ki falan cheez bhi hamen mile, falan cheez bhi hamen mile. Yih nafs-e-amara ki kharabian hain. Isi tarah aapko chahiye ki nafs-e-amara kabhi khula na rakhen. Agar uski lagam khuli rahi to aap kahin ke na rahenge,"

Then he insists on control over "Nafs-e-amara lagam."

He insists on prayer as a means to save man from derailment, from greed and sin.

"Aap apne dil se kahen ki agar aapne naghma dekha ho ya cinema dekha ho, nasch waghaira dekhe, to aap wehan ghante zaya karte ho aur parwah nahin karte ho. Magar jab baang dene wala masjid se baang deta hai."

Your honour may skip over a page :

“Jis insan ne 5 waqat namaz parhi, uska roohani mail sara door ho jata hai. Khuda tala tumhare aur mere mail door kare.”

5 prayers will cleanse and purify mind from the greed hatred, bitterness, etc.

“Yeh namaz Musalmanon ne tark kar di. Natija yih hua ki Musalman karoron ke tadad men dar dar ki thokren kha rahe hain.”

Misfortune has visited mankind because you gave up godly ways and because you have forgotten God. He is telling Muslims that they have become irreligious. “Har jagah Musalman zulm-o-sitam kar shikar ho rahe hain.”

That this is their own doing. He does not blame others.

“Agar aap oopar uthna chahte ho, mazalim aur museebaton ke jo shikar bane ho, us se nijat hasil karna chahte ho, to sirf ek kunji hai aur woh hai namaz 5 waqat ki.”

What will save you from these tribulations ?—not violent means, nor hatred and contempt and not any material means—but 5 prayers a day. If you are undergoing sufferings and tribulations that is not because of any individual but because of your having forgotten the godly ways

Then, Sir, in this context, Mr. Pathak has read, about 5 lines below :

“Kiya mumkin hai Khuda tala aap ki mudda qabool nahin karega? Khuda tala kehte hain: Ai mere bande, mujh se maang main qabool karoonga”.

This was the background that I read :

“Agar aap Khuda tala se kahenge ki woh hamen maujooda pareshanion se nijat de, insha Allah hamen pareshanion se nijat bakhshenga”.

Again, he emphasises the audience to have recourse to God.

“Khuda tala kehte hain : Ai mere bande, mujh se maang, main qabool karoonga. Agar aap Khuda tala se kahenge ki woh hamen maujooda pareshanion se nijat de, insha Allah hamen pareshanion se nijat bakhshenga”

He advocates not any material means or mundane or violent means to achieve the object. He says the only way is to pray to Him, approach Him and all your sufferings are due to your own lapses and failures. And the only way to redeem yourself is to go back to the way of God.

“Magar shariat ek hai ki 5 saalon men jo imtehan aapke iman ka hua, us men aap kamyab hue. Ek taraf tamam dajjaliyat ke saman the”. Here comes the much distorted word. “Ek taraf tamam dajjaliyat ke saman the ki aap ke haq ka jhanda, sachai ka jhanda neech gir aur jhoot ka jhanda buland ho, mukhtalif saman pesh kiye gaye”.

“Dajjaliyat”—forces of evil :

Now, Sir, “Dajjal” is an evil force. In the beginning the speaker has pictured to our mind two conflicting

forces inherent in every man, in the very human nature, the two opposite pulls in him, the spiritual pull and the mundane pull. The mundane pull, the desire for worldly gains, comforts and luxuries, at the cost of spiritual ascendancy is represented as 'Dajjaliyat'. This tendency is inherent in every man, irrespective of caste, community or creed.

Court : What is translation of word 'Dajjaliyat' ?

Mr. Mubarak Shah : Sir, it means the force of evil.

Mr. Beg : What I understand from this is forces of evil inherent in every man as against forces godliness or spiritual forces.

Sheikh Saheb : In Scriptures of Islam, Judaism, and Christianity, Kalyug as Hindus say, that there will arise somebody known as 'Dajjal' and he will try to lead the people to the path of evil and by putting before man various temptations and then he will try to mislead people from the path of righteousness. Then according to Christian Scriptures they say that Jesus Christ will come and he will again preach virtue and goodness and all that and defeat the forces of evil. 'Dajjaliyat' means forces of evil trying to mislead people from the path of virtue to the path of evil and desire.

Mr. Beg : It means forces of evil.

Sheikh Saheb : However, if you help the forces of untruth, the forces of evil, you will go under. That is in Islamic history and Christianity. And I think it is also in Hindu philosophy. It is believed that in Kalyug such forces will come in power and will try to mislead the

forces of righteousness and then God will manifest in His way and settle it.

Mr. Panday : Does it mean settling ?

Sheikh Saheb : 'Dajjaliyat' is forces of evil.

Mr. Latif : The same philosophy as Kalki Avatar.

Mr. Beg : I am afraid we may get into this controversy. Mr. Radhakrishnan must be knowing it.

Court : Does he belong to that age ?

Mr. Beg : Sir, I am reading these speeches as one who will understand the sense from the construction of words and context. I am not projecting my mind at all. This is as I would understand if I would hear Sheikh Saheb's speech.

Mis-interpretation of word "Dajjal" :

Now, Sir, it is absolute distortion or gross ignorance to interpret "Dajjal" as somebody anti-Muslim as P. W. Toshkhani has interpreted it. We have just now heard that the sense exists in various Scriptures of different religions ; and the concept of degradation of man at one stage is visualised in various religions, when forces of evil will dominate for a while. I might in more material words interpret this manifestation of evil forces by reference to the present race of armaments and preparation for destruction of human civilization. Billions and billions of rupees which will save millions of starving masses, are spent on rockets and other armaments. These are the forces of evil. Geneva Conference might prove an instrument of 'goodness' to mankind. U. N. O. will be the force of good. It is, however, subject to divergent

bloc pulls, and does not always implement its pledges such as in Kashmir.

Forces of evil explained :

Now, when millions of people are, all over the world, starving, dying for a morsel of food, reckless expenditure of billions and billions on armament would be the forces of evil. However, there is no reference to Bakshi Sahab in this denunciation. I do not know whom the cap fits. It is the principle. Sheikh Sahab has enunciated it only as a principle of philosophy taught by every religion.

Reference to discrimination and tortures no treason :

He says : "Ek taraf tamam Dajjaliyat ke saman the." All these hardships inflicted on people are due to departure from godly ways. Sir, you may not agree with that philosophy but the fact remains he is preaching the way which excludes violence, hatred and retaliation.

During the famine days of 1947, ration cards were issued in Kashmir. We were in prison. Government was doling out relief rations from shops. The District Magistrate refused to give ration cards to my childrer. Similar was the lot of hundreds of others. Profuse references have already been made to all manner of atrocities committed. Now, to criticise these things would be considered as treason only in dark age, not in these days of democracy.

Now, the speaker refers to 'haddiyan torna' i.e. breaking of bones. Your honour may look to Mir Nazir Ahmed's statement, in which he describes the tyranny

of police committed on two children. Mr. Mohiuddin Shah and Soofi Mohd. Akbar were beaten up and humiliated publicly. Soofi was then a member of Parliament, may I say Pt. Jawaharlal Nehru's colleague in Parliament. Mohiuddin Shah was man-handled and his coat was torn and a part of it was carried away by the goondas. Atrocities of Central Interrogation of Government of India are already before your honour. You can see the horrors they have perpetrated. It is one's duty to expose all this in order to reform this and redress the wrong. We owe it as much to Government as to the people to expose such practices.

The speaker is talking of those forces and there is considerable evidence on record to support that. Those are forces of evil and in democracy it becomes one's duty to expose them. Sheikh Saheb has put it in a philosophical manner that when human nature descends to lowest depths of degradation, evil forces manifest themselves, then godly forces come and counteract. A more mundane outlook will be that it is a conflict between despotic forces and forces of democracy.

Remedy – recourse to God, not to chaos :

“Ki qaum men aise shakhs hote hain jinka nafs khulta hai magar min-haisul qaum gharib ho kar bhi museebaten aye bhi. Aap ne yih sab kuchh bardasht kiya magar Allah tala ki yad ko na chhora, unki umid na chhori.”

You must revert to God, and wholly depend on God.

“Agar aap apne kam men mukammil taur kamyab

hona chahte hain, to namaz 5 waqat ki haath se na chhoro."

Kindly underline that. That is the only remedy in the mind of the speaker.

"Agar aap apne kam men mukammil taur kamyab hona chahte hain to namaz 5 waqat ki haath se na chhoro."

We forget God and that is the reason why we get into difficulties.

"Agar aap sirat-e-mustqim par nahin chaloge to wohi hona hai jo purane qaumon ke saath hua".

If you do not go on the path of righteousness then all that happened to previous generations will happen to you. There is no derogatory remark against anyone. Do not understand that Sheikh Saheb is talking against certain persons.

"Is waqat bhi hamare liye azmaishon ka daur hai. Woh barabar jari hai. Woh azmaish mumkin hai aage barh jayegi. Magar main kiyon mutmain na hoon? Is liye ki qaum ne jo kirdar dikhaya unhon ne Allah tala par jo yaqin laya hai. mujhe yaqin hai ki yih qaum mar nahin jayegi."

He emphasises that we are undergoing tests and trials now and we must suffer silently.

"Balki Khuda tala ne muqaddar kiya hai ki woh is qaum ko oopar uthaegi."

I am convinced that God has willed this nation will rise.

“Is waqat bhi azmaishon ka daur hai Chunanche aap dekhte hain ki is waqat bhi mere bahut se saathi aur dost jailon men saalon se band pare hain aur mukhtalif taklifon men mubtila hain. Woh taklif door karne ke liye bahut kam tawajoh di jati hai.”

Even prosecution evidence testifies Sheikh's grief at tarnishing fair name of India :

Then please leave about 10 (ten) lines.

“Hamare ek dost Pir Abdul Ghani jo mere sath Kud jail tha, jo Islamabad ka rehne wala hai, woh riha kiya gaya aur phir giraftar kiya gaya. Bila kisi qasur ke woh zibah-khane men band kiya gaya taki woh ghalat bayan de sake, taki woh apne sathion ke khilaf sultani-gawah bane, apne sathion ke khilaf bayan de. Woh hamara ek bahadur karkun raha hai usko woh sultani gawah banana chahte hain. Woh kehta hai ki mera tukre tukre karo magar main ghalat bayan nahin doonga. Ab mujhe pata laga hai ki woh unke ghar gaye hain, unke ghar walon par zulm-o-sitam kiya gaya hai. Aurton ki besatri ki gai hai taki woh har tarah se pareshan ho, taki woh sultani gawah ban sake.”

Kindly note this very important piece of evidence, coming as it is from a document produced by the prosecution, alleged to be very reliable. And this came out through relatives of Pir Abdul Ghani.

“Main un doston ko warning deta hoon jo woh ghalat raste par chalte hain. 4½ saal se jo kam woh karte aye woh unke liye hi bura sabit na hua balki Hindus-

tan ke liye bhi jin ke woh agent hain unke liye bhi woh bura hai."

Sheikh Saheb refers to his adversaries as his friends. "They may be derailed." It is a friendly warning. He talks not in unfriendly terms. He grieves that whatever has been done during the past 4½ years has tarnished the fair name of India. The very tone and text show that Sheikh Saheb wants these things to end so that India may not further be defamed. A person unfriendly to India would not say such things.

"Ek waqt ayega jab ki woh apni bad-amalion par afsos karenge. Itna he nahin woh yih koshish bhi karte hain jo aap ne Allah tala ka daman pakra hai, jo aap men aapsi kadoorat thi woh door hui. Musalmanon men jo ittehad hai woh un par zehar parta hai. Woh chahte hain ki is ittefaq men rakhna dalen".

Criticism of divide and rule policy :

Now, Sir, it is no treason to say somebody wants to create disunity amongst the Muslim ranks.

"Unhon ne jab main jial men tha yih koshish ki ki do firqon me fasad ho".

Sheikh Saheb might have read some newspapers in the prison. It seems that somebody might have tried that two communities may come into conflict. In the past also they tried that the two communities may come to clash. He is referring to it as 'Dajjalayat'—something condemnable.

“Is waqat bhi koshish karte hain ki Shion aur Sunnion men fasad ho jaye”.

Your honour will take notice of the fact that Shia-Sunni clash was a disastrous incident in the history. He is warning the people against such incidents.

“Ek insan ko pakarte hain, usko maar dete hain aur phir Shion ke Mohalle men chhor aate hain aur afwah bazi karte hain ki Shion ne Sunni ko mara”.

He is fighting these disastrous rumours and only one desirous of peace among communities will say this.

“Sirf is waste ki yahan par koi fasad uthe. Pehle bhi yahan par Musalmanon men nifaq dala gaya. Dushman har waqat chalak hota hai. Usne mukhtalif firqon ko laraya hai aur apni hakumat qaim ki hai”.

Certainly he is talking of those times when ‘divide and rule’ was the policy of the ruling clique. We all know what happened in India as a result of that policy.

‘Namaz’ panacea of all misdeeds :

“Main aap se iltimas karta hoon, aap tamam Musalman chahe aap kisi firqe se taluq rakhte hon, is waqat ek aisa waqat hai jab aap men ab ittefaq hona chahiye jaisa ki faulad men hota hai. Bahar hal main aap se arz karoonga ki yih takaleef tabhi door ho sakte hain jab aap namaz parhenge”.

Pointing out disastrous consequences of communal disturbances and sectarian prejudices, he says that you are passing through a critical stage. You will overcome all these hardships when you offer prayers, i.e. revert to God and His ways. He has earlier told us that salvation can

only be achieved through prayers. Mark extreme importance that he gives to it.

“Yih ek bara tohfa hai jo Meraj ki raat Janab Mohammed Mustafa ne aap ke liye laya”.

Talking of ‘Meraj’, stressing communal unity, pointing out the disasters of disunity, he says that you will overcome all your troubles, tribulations and sufferings in case you come back to God and follow his commands. Have recourse to ‘Namaz’.

Then he shakes up his audience by reading Iqbal :
“Who is there who had deviated from the path of ‘dastur’
.....”

Court : Is it necessary to give translation ?

Mr. Beg : I shall only give substance. Having pointed out the disastrous consequences of factionalism and other evil ways, he grieves on those who left the path of Prophet and took to other ways.

Finally, he says :

“Qalb men soz nahin, rooh men ehsas nahin,

Kuchh bhi Paigham-e-Mohammed ka tujhe pas nahin”.

Now, Sir he bemoans the lot of Muslim community who gave up the practice of saying regular prayers. Prophet had said that prayers are the only way of salvation, a means to overcome troubles and tribulations of the world. Are these the indications and is this the evidence of preaching treason or creating hatred or of overthrowing a government ? He has read from Quran and the Holy Prophet. Is that treason ? It is a tragedy

to call it so. The Government, it seems, have to keep Sheikh Saheb behind the bars whether he has said or done anything or not.

Sir, I remember one thing. You have read Julius Caesar. When the rioters said, "Here comes Sina" He said, "I am not Sina, the conspirator, I am Sina the poet". The rioters retorted : "All right, then let us kill him for his bad verses".

Central theme of speech—remedy of various ills, prayers :

This concludes the speech of Sheikh Saheb delivered on 16th February, 1958, at Hazratbal. Not a single word can, with any stretch of imagination, be construed to indicate or imply even remotely hatred between different communities, or to advocate use of violence, or incitement to overthrow the government. The central point of his talk is that the remedy for various ills is through prayer. The prosecution may not agree. That is a different matter. But here is a man who talks from the very core of his heart. He cited in support of every word from the Holy Book and life of Prophet of Islam. His whole theme completely excludes any idea of hatred. It preaches love and affection and it reprimands Muslims for having given up the path of God. My submission is that as we approach the fateful day of 21st February, 1958, your honour will keep the back ground of this speech in mind. The speech that followed on the 21st February is a part of this speech. On that day people behind this prosecution unabashedly and callously staged the pre-planned Raj-bagh drama.

CHAPTER IV
Defence Arguments
(20th May 1961)

By
MIRZA MOHAMMED AFZAL BEG

On
Sheikh Mohammed Abdullah's Speeches :

ExP. 269/D/1

Dated 21st February 1958.

ExP. 269/F/1

Dated 28th February 1958.

CHAPTER IV

(20th May 1961)

(A)

Over all picture of 16th Feb. speech :

Your honour, I took you through the speech of 16th February yesterday. Today's speech is in continuity of yesterday's speech and, therefore, with your honour's indulgence I might give broad points that the speaker made out in yesterday's speech.

Analysis of human nature :

The speaker told us of man being composed of two compelling forces—of good and evil. There are two divergent pulls perpetually present in him, one dragging him into the depths of degradation, and the other pulling him up to celestial heights. The latter was the nobler self, spiritual self, the former was the baser self, and both, were present in every individual. He gave this analysis of a human being, irrespective of caste, creed or race and irrespective of political dissensions.

'Meraj'—doctrine of Nirvana :

Then he told us that this spiritual self pulls up the individual higher and has the capacity to dominate over the baser self. How can that be done ? He tells us it can be done by 'Riyazat', by 'Ibadat', and by following the path of the Prophet. That path alone, he insisted

throughout his speech, purifies the soul, ennobles the mind and ultimately leads to 'Meraj'—complete salvation of man, or presumably in terms of other philosophy would be the "Nirvana". I have understood it as the doctrine of Nirvana.

Where all big philosophers meet :

You will kindly note that he referred to Juda philosophy, to the Christian outlook, to the Scriptures and to Hindu philosophy. So, that is the point of convergence where all big philosophies meet. These are the teachings of Deliverers of the world, where they all meet. There could be no more forceful sermon on unity and oneness of mankind. It will be, indeed, unfortunate to wrench out of this unwarranted inference that the speaker was inciting dissensions or discrimination between castes and communities.

Salvation through 'Namaz'—prayers :

The speaker has throughout his speech, quoting from the Holy Book, emphasised that the means to achieve salvation was to offer 5 prayers a day, which was gifted to the Prophet of Islam for his 'Ummat'. He pins down his audience that if they want to reach those solar heights it would be only through 'Namaz'—prayers. Incidentally, he referred to the important fact that this nation will not go down. He gave them the hope that they will rise to those heights. Your honour has to read the speech in that background.

Unity and means :

I am winding up these brief observations with the emphasis that he finally insists on complete unity :

“Itihad-e-kamil rakho”. He emphasises the observance of ‘Namaz’ as a means to get rid of misfortunes and troubles, nothing else to be used as means.

That is the crux of his yesterday’s speech. Of course, incidentally he referred to certain editors. Commenting on them, he pointed out their unrepresentative character, and pointed out in his own words how they were ‘pich-dar (ing)’ in the State of Jammu and Kashmir. With this background we approach the next speech which was delivered on 21st of February 1958 at Hazratbal.

(B)

Exhibit 269/D/1, Speech dated 21st February, 1958 :

This is 21st February 1958. I do not mind if your honour takes down the time from the record of the speech, as noted down here. The first portion is 'Salam' to Prophet of Islam. We may pass on.

Recognition of Kh. Abdul Rahim Banday—stand for justice :

Thereafter the speaker addressed the audience and referred to Kh. Abdul Rahim Banday whose services he acknowledged, and said that he stood for justice and was not tempted away by worldly favours from the righteous path.

I have told your honour that the position that that man holds in relation to the shrine and the respect that Muslims have got for Kh. Abdul Rahim Banday. I have said in my statement that occasionally he used to offer prayers for the welfare of those who were in detention—a fact which, apart from other things, has a religious aspect.

Only fulfilled a religious duty :

A Musalman is enjoined by the Holy Book not to forget those who are orphans and those who are in prison.

'Give them some relief', says the Holy Book. This gentleman being incharge of a shrine and being himself very religious-minded, has been praying for 'mahbooseen'. This the Government did not like and brought all pressures on this man. However, he did not yield. The speaker's reference to him is a recognition of that fact :

"Is silsile men jo kirdar yahan ke mutwalli Abdul Rahim Banday aur doosre ehtinami bazurgon ne dikhaya, har ek ko aur khaskar mujhe fakhar hai kiyon ki intchai koshish ki gai ki woh haq se phir jayen aur na-haq ka sath then'".

Then we may pass over 1½ pages. Kh. Abdul Rahim Banday himself speaks. Of course it is a mere formal compliment paid to the people and the nation who have recognised his services.

Extremely grieved at Maulana Azad's illness :

Sheikh Saheb opens his speech by referring to illness of Maulana Abul Kalam Azad, which subsequently proved fatal.

"Is ke baad muqarir ne kaha, Dosto, aaj aap is muqaddas din is muqaddas jagah hazir hue hain. Peshtar ki main apni taqir shuroo karoon, ek baragham hai jo mere dil-o-dimagh par hai. Aap ko ilm hai ki Musalmanan-e-Hind ke ek azeem rahnuma aur ek bazurg Musalman Hazrat Maulana Abul Kalam Azad sakht aleel hain. Unki milli aur mulki khidmat itni hain ki un par taqir karne ke qabil main apne aap ko nahin samajhta hoon'".

He refers to his services, both to the community and the country. He was a religious divine, too:

“Jo khidmat quam ki, mulk ki, duniawi aur deeni khidmat unki hain, un par main roshni nahin dal sakta hoon.”

He clarifies in very clear words the services rendered in the cause of religion and his temporal services. Obviously he refers to services in the freedom struggle of India by this outstanding personality who fought communalism with unflinching and unparalleled faith, who gave his life, his position and everything, for the cause of communal unity. The speaker shows him up as symbol to the people.

“Maulana Azad ki shakhsyat aisi hai ki jis se har ek ilm dost waqif hai. Woh is waqat nihayat shiddat ki alalat men hain aur ham is muqaddas jaye pak men hazir hain aur agar Khuda nakhawasta unko koi takleef is alalat men hui to woh alam-e-Islam ke liye ek azim nuqsan hai”.

He wrote most illuminating commentary on Quran and religious thesis in various of his works. He gave orientation to old outlook and brought out Islamic outlook before the Indian Muslims, teaching them secularism and unity. He impressed on Muslims, from the Islamic point of view, the necessity and importance of their participation in the struggle for freedom.

“Mulk ki azadi ke liye jo unhon ne tamam umar waqaf ki woh itni shandar hai ki us se ziada koi shandar sipahi azadi ki jang men nahin tha. Bahar

hal mere paas aur koi cheez nahin hai. Aap sare Musalman bhai, Musalman khawateen yih dua mangen ki unki sehat theek ho jaye. Allah tala Musalmanan-e-Hind aur Musalmanan-e-alam par un ka saya maujood rakhe”.

Overall picture through entire speech only :

Court : Is it necessary to refer to matter which they have not objected ?

Beg Saheb : It is not a question of objection. They have deliberately suppressed it. My charge is that prosecution have deliberately suppressed it, so as to create confusion.

Court : One side says that we have other objections to speech. If you want to.....

Sheikh Saheb : The question is that Mr. Pathak has impressed upon you very often that overall picture of the speeches should be taken. Now, overall picture can be taken only by going through the entire speech. What the prosecution did, they selected a sentence torn out of context in order to prove their theory that I was preaching communal hatred, that I was preaching hatred. Sentences were torn out of context. But other parts of my speech, they deliberately suppressed. Now, when we have to answer the prosecution theory, we have to put the whole picture before you.

Court : I am not going to stop you.

- Mr. Beg : I know my rights. How can anybody stop me ? They insist that overall picture should be taken note

of and when I put forward complete picture, I am told that it is not necessary.

Pray God may give us that which may be good for country and whole nation :

“Doosri arz yih hai ki muqaddas ziarat men ham hazir hain. Mere bahut sare bhai, hamare bahut sare bhai jinhen kai saal nazarband jailon men hue, yaqinan unki aankhen hamari taraf lagi hui hain. Unke tamam khayalat Asar-e-Sharif Hazratbal ki taraf honge. Jinhen kai saal begunah jailon men hue, unko is waqt maloom hoga ki unke bhai, hazaron bhai Asar-e-Sharif men hazaron ki tadad men dua karte honge. Aap bhi dua karen ki Khuda tala unko apni hifazat men rakhe. Khuda tala hamen wohi bakhshes jis men hamare mulk aur qaum ki behtri ho”.

And I am asked to suppress this because they have not said it. He says :

“Khuda tala hamen wohi bakhshes jis men hamare mulk aur qaum ki behtri ho”.

And that gives the crux of his approach in regard to the persons who were carrying on struggle. He does not foist his own opinion. His viewpoint is :

“Khuda tala hamen wohi bakhshes jis men hamare mulk aur qaum ki behtri ho.”

This is very important. He keeps his mind open and says that God may lead us to that which may be good for the whole country and for the whole nation.

Greatest gift from the Prophet—prayers :

Then in the following paragraph he reverts to 'Namaz' and he comments : "Sab se bara tohfa namaz hai". The occasion is the Friday following Meraj-e-Alam.

"Woh bahut se tohfe laye. Sab se bara tohfa jo woh apni ummat ke liye laye, woh namaz panjgana tha. Woh Meraj-e-Sharif ka azeem tareen tohfa tha".

It will be wrong to wrench off these expressions from this background he gave on Prophet's day. He then emphasised on his audience that the greatest gift that the Prophet brought for them was prayers to God. Here also he comments on this and says what are the various forms of 'Namaz'.

"Agar kisi Musalman ko Khuda tala taufeeq bakhshhe woh tahajjud ki namaz parhe. Khuda tala farmate hain jab aap 5 waqat ki namaz ada karenge aur tahajjud ki namaz bhi parhenge, yih ek namaz hai to taraqqi ka zariya hai, Allah tala tumhen maqam-e-mahmood ata karega".

If you follow these night prayers and prayers during the day, then God will give you 'maqam-e-mahmood'. The highest attainment that men can cherish for is 'maqam-e-mahmood'. How? Through prayers and through no other means.

"Yih jagah insan ki taraqqi ka ek buland tareen maqam hai".

That is the goal that man must strive for. But road to that goal is through prayers.

“Tahajjud”-special prayer offered at night :

“Jab aap 5 waqat ki namaz ada karenge aur tahajjud parhenge aap ko maqam-e-mahmood ata hoga. Yih hidayat Allah tala ne tamam Musalmanon se ki hai. Agar woh namaz panjgana aur tahajjud ki namaz parhen to unko bhi maqam-e-mahmood ata hoga. Yih maqam insan ke liye ek buland maqam hai.”

Court : What is “Tahajjud ?”

Mr. Beg : It is a special prayer offered during the night, in addition to 5 prayers. It is said at about 2 a.m. as an additional prayer, when you are away from woes and worries of the world, and mind can concentrate on blessings of God. That will give the highest attainment that a man can crave for—the highest intellectual and spiritual refinement of man. Hence the speaker's repeated insistence and exhortation for achieving purification of man in order to attain that ‘maqam-e-mahmood’.

Speaker's insistence on conquering of hearts by love, not sword :

Then he refers to big emperors and kings of this world. That is very important.

“Bahut se bare bare badshah uthe hain. Sikandar-e-Azam duniya men aya jis ne tamam duniya ko fateh kiya. Napoleon France ne tamam duniya men zalzala paida kiya. Yih do bare faateh ek aur bhi Changez Khan bara faateh duniya men tha magar itne mulk fateh kar ke woh logon ke dil fateh na kar sake”.

These emperors and kings who struck awe throughout the world by their pelf and power and by their sword and conquered the world, but they could not conquer the heart of man. Here is his approach to life, exemplified by historical facts, that the great Napoleon, emperor Changez Khan, Alexander the Great, inspite of their greatness, power and all that, failed to conquer the heart of man though they conquered earth. Therefore, his insistence on the ideal of conquering hearts. Soon he will tell us that how necessary it is in the present context.

“Karoron admion ke jism fateh kiye magar woh 10 admion ke dil fateh na kar sake”.

This exactly used to be preached by Indian leaders before 1946. Gandhiji told the British ‘you might conquer India but you cannot conquer our hearts’. You might rule over our bodies but not on our hearts. That is the philosophy that Sheikh Saheb is explaining.

“Yih darja sirf Khuda tala ne nabion our paigham-baron ko ata kiya hai”.

Prophets and reformers alone achieve this object of conquering hearts.

By innuendo Sheikh Saheb condemns use of sword :

“Unhon ne mulk fateh nahin kiye. Unke pass khazana our talwaren nahin theen”.

By innuendo and implication he condemns use of sword as means of achieving objects. This abstinence from use of sword, he compares with position taken by the Prophet. Therefore, his respect for those means is obvious and his condemnation for other means, too, is equally obvious.

The Prophets and reformers took to unifying of hearts and conquering of hearts, not by sword but by love. That is his weapon and that was the way of Prophets who were sent by God to reform the human society. Now, his dedication to such means and his denunciation of other means can be very clearly seen.

Christ and Prophet won millions by love :

“Magar unhon ne karoron insanon ke dil fateh kiye”.

How unfortunate that he is addressing only Muslims ! He indicates his great respect for Christ and Christianity and points out that Christ was the one who won millions of hearts by love, obviously not by sword.

“Hazon saal guzarne ke baad bhi karoron admion ke dilon men Hazrat Isa ki mohabbat hai. Karoron admion ke dilon men 1400 saal guzarne ke baad bhi Janab Mohammed Mustafa ki mohabbat maujood hai”.

1400 years have elapsed since His advent ; and there is deep veneration of love for the Prophet of Islam.

“Unhon ne insanon ke dil is tarah fateh kiye hain”.

They won the hearts of people.

“Ki jab tak duniya qaim hai tab tak Rasool Allah ki taareef har ek ki zaban par hogi”.

Prayers to God are the only means which guarantee such achievements.

Repeated emphasis on prayers as means :

Now, the means and ends are put before the public and insistence is on the means. The intention of the speaker is obvious. It is ingrained on the minds of the people that if they want to attain that 'maqam-e-mahmood', most coveted position, highest position in the eyes of God and Prophet of Islam, whose Day they are celebrating, it will be through 'Namaz'. Again and again he reverts to prayers.

Meaning of word 'momin' :

"Allah tala ki vehdaniyat ke baad An-Hazrat ko kaha ki namaz parho. Uske baad Khuda-tala ne momin aur kafir ki pehchan rakhi hai. Allah-tala ne har ek ki pehchan rakhi hai. Momin woh hai jinhon ne namaz men khuzoo ikhtiyar kiya ho, jis ne namaz panjgana ki hifazat ki ho, jis ne namaz qaim rakhi ho. Aap apne dil ko tatolen ki aap men momin ke sifat maujood hain".

A 'momin' is one who completely dedicates himself to God.

In his prayers, 'khazoo kiya'—'khazoo' is concentration—that is, one who completely concentrates in God.

Court : What is the heading of the paragraph ?

Mr. Beg : It starts from "Doosra hukam hua".

Now, this is not what is vulgarly understood by 'Momin' and 'Kafir'. 'Momin' means one who has faith and the implication is that who honestly and sincerely.

from the depth of his heart, concentrates in God during his prayers and identifies himself with God.

“Jisne namaz-é-panjgana ki bifazat ki ho, jis ne namaz qaim rakhi ho. Aap apne dil ko tatolen ki aap men momin ke sifat maujood hain”.

He has not referred to non-Muslims as ‘non-momins’. He says amongst the Muslims there are ‘non-momins’.

“This is time for ‘maghferat’ i.e. forgiveness”

“Agar nahin hai to yih maghferat ka waqt hai”.

‘Maghferat’ means forgiveness from all lapses that a man might have committed. He tells them here is the time ; you are in the House of the Prophet of God, have penance and repentance. If you have ceased to possess the qualities of a ‘momin’, offer penance in the House of God.

“Khud bhi namaz parho aur apne ahl-o-ayal ko bhi kaho ki namaz parhen. Namaz parhne ki salahiyat den. Kitne ham men hain jo namaz parhte hain ?”

He is referring to the conditions and he again reverts to ‘Namaz’.

Kashmiri Muslims, victims of misfortune, still emphasis on ‘prayer’ the only remedy :

“Kashmir ke Musalman mushkilat men pare hain. Yaqinan har ek ki khawahish yahi hai ki is musibat se hamen nijat hasil ho.”

Now, Sir, whether they like it or not, it is a fact. When Mahatma Gandhi saw that Harijans were victims of oppressive social system, he boldly had to talk about

it. As a student of practical politics the speaker will have to relate his comments on the religious facts to the actualities of life. From 1953 Muslims are generally looked upon as suspects here. We were not allowed to have a Kashmiri Muslim as our servant. He would naturally like to free the people from these misfortunes. He lays emphasis on how to get riddance from this misfortune in which Muslims have been hurled.

“Allah tala farmate hain kamyabi sirf us insan ke liye hai jo namaz panjgana ada kare”.

And to them, who are involved in misfortunes, he pointedly says that they can get free from this and achieve success through ‘Namaz’.

“Is liye main Musalmanon se arz karta hun ki jo waqt ki namaz parho”.

This is in relation to the present miseries of Muslims. It is a very important passage in view of the accusations and wild charges brought against us. Sheikh Saheb is referring to the conditions which we are facing since 1953. In that context, to the masses of Muslims, he says that let us all pray to God that He may free us from misfortunes. There is one way and that is through ‘Namaz’. Not that we will invite, as we have been wildly charged and accused of, Pakistan armies to relieve us from this misfortune.

Cruz of whole speech—Sheikh’s exclusive faith in prayers—never in army, sword etc.

“Kisi fauj ki zaroorat nahin, talwar ki zaroorat nahin, aslah ki zaroorat nahin, kisi saman ki zaroorat nahin, agar aap silq-dil se panch waqt ki namaz parhen”.

That is the crux of this whole speech, and it is repeatedly said. Now, your honour will look at it in the context of happenings of 1953. His absolute, exclusive and firm faith is in prayers.

Kindly mark the complete denunciation of war-like ways, military ways, violence and the like. Kindly note it down as complete repudiation of the charge brought by the prosecution.

Majority community (Muslims) asked to follow the path of God on Prophet's Day :

Coming as it does, on the Day of the Prophet of Islam and on Friday, its demerit is not that it is addressed to Muslims, rather its merit is that it is addressed to Muslims. Being a majority community in Kashmir they have to be told to take to God's path to achieve their ends. Its main merit is that he has spoken to Muslims on the Day of Prophet and its main merit is that it is spoken in a shrine for whom Muslims have greatest reverence.

Since 27 years basis of struggle-right of self-determination :

“Aap ko ilm hai panch sal nahin balki 27 sal se ham ek jaddo-jehad men phanse hue hain, haq-o-batil ki takkar men ham 27 sal se pare hain”.

When in the struggle of 27 years Indian Congress leaders were shoulder to shoulder with Sheikh Sahab, it was termed as a struggle between the right and the wrong, between justice and injustice, it was so termed. It was called a movement for truth and justice. Maharaja

had not the exclusive autocratic right to rule over 40 lakhs people and so about other Indian States in old British India. The basis of the struggle was right of self-determination. Now, our worries have multiplied, particularly during the last five years. He tells them really they are involved in misfortunes and woes and worries which have increased during the last five years. After having said that, he points out the remedy and cure, i.e. prayers to God—he reverts to that; not booby-traps or gun-cotton slabs as is being imputed to us now.

Counsel to Muslims on Prophet's Day—suffer patiently despite greatest misfortunes :

The following passage is still more important. Remember it is 21st February, when the other side has already laid out its conspiracy. Hence the trouble of taking your honour through this speech and those words which the prosecution has deliberately suppressed. I have told you, Sir, its merit is that it is being spoken on Prophet's Day.

“Agar tum musibaton men muhtala ho to sabar se kam lo. Khuda-tala ki taraf ruju ho kar dua karni chahiye”.

It is very important from our point of view. Amidst the greatest misfortunes and worries facing them, he counsels : “God tells you to suffer patiently and quietly”. He tells them “it is God's command and you are ungodly if you diviate from them.” He does not tell them to rise up, burn, kill and loot. But, “if you are in troubles go back to God and pray”. And to whom is he preaching

this? To Muslims whom he is accused of having incited to revolt !! We are conscious of the fact that tremendous responsibility devolves on Muslims as a majority community. Political obligations devolve on them. I hold my head high that they discharged creditably their responsibility in 1947 in Kashmir. It was acknowledged by the highest in the land—by Jawaharlal Nehru and Mahatma. But that was good enough then, we are suspects now.

Biggest Muslim congregation told one who does not bow before God is 'Kafir' :

Your honour will remember one thing. He had the biggest audience on that day. According to the prosecution 1½ lakhs ; and according to other reports nearly 3 lakhs of people. Any way, it was an unprecedented, memorable gathering coming from all parts and all classes. This is the gospel that he preaches on that day.

“Allah-ta'ala farmate hain momin aur munafiq men kiya farq hai, munafiq ki nishani kiya hai? Khud-tala farmate hain ki jab namaz ka waqt ata hai to munafiq men kahalat ati hai, susti ati hai, jab bang dene wala bang deta, jab yih awaz unke kanon men pahunchti hai unke sar par parbat sa girta hai. Momin aur kafir men kiya farq hai? Khuda-tala farmate hain ki namaz tark karna kufr ki nishani hai.”

Now, a 'non-Namazi' sometimes is very vulgarly understood as 'Kafir,' meaning non-Muslim. The distinction between the two as given in the Book of God is that at the time of prayers, he is overtaken by laziness.

Sometimes it is commonly understood that 'kafir' means non-Muslims in the ordinary sense of the term and Musalman means one recorded in the census register as Musalman. That is not it. He points out the real distinction between the two, points it out according to the Word of God. He says that one who does not bow before God is 'kafir'.

Stress on the gospel of prayers :

"Khuda-tala hamen taufeeq de ki is panjgara namaz ki ham hifazat karen. Allah-tala farmate hain ki jab qiyamat ke din jannat aur jahannum honge aur yih kafir jahannum men honge."

'Non-namazis' are those who do not bow before God. For them will be hell.

"To Khuda un se sawal karega ki tum jahannum men kiyun ho? Kafir jo jahannum men jal rahe honge jawab men kahenge ki ham benamaz the."

Even those who call themselves Muslims are not really Musalmans, if they fail to offer 'namaz' and fail to bow before Him. For them, the doors of salvation are closed.

"Aap sab log apne nafs ki taraf nazar rakhen. Aap rehmat ke darbar men hain."

Qualifications of a 'Haq-Parast,—follower of Truth :

You are here in the shrine of Islam.

"Khuda-tala hamko maghferat bakhshenge. Khuda-tala farmate hain namaz qaim rakho, kufr men

shamil na ho. Janab Mohammed Mustafa farmate hain ki namaz deen ka satun hai. Jo namaz tark karta hai uski deendari khatam hui hai. Janab Mohammed Mustafa doosri jagah farmate hain namaz dil ki roshni hai. Agar dil ki tariki door karna chahte ho to namaz parho."

If you want to purify your heart and to cleanse your mind, bow before God and offer 'namaz' and say prayers. He says that in 'namaz', concentration, complete meditation and dedication to God is 'khazoo'. That is one means to purify oneself and of attaining godliness.

Then, Sir, he relates an incident in Islamic history. A delegation waited on Prophet of Islam once. They wanted exemption from 'namaz', 'zakaat' and fasts etc. The Prophet told them that they could be exempted from everything except 'namaz'. Now, thereafter he points out the advantages of prayers. This is the only one way of reaching God. Your honour may now leave out 1½ pages :

"Soora-Bani-Israel men farmate hain, yih woh zamana tha jiske baad Janab Mohammed Mustafa ne hijrat ki. Us waqt Musalmanon ki halat wahan bahut kharab thi, woh tarah tarah ke muzalim ke shikar the. Us waqt meraj hua. Sach aur jhoot ki takkar tab se shuru hui jab se yih duniya shuru hui. Khuda-tala Surz Karim men farmate hain ki haq paraston ke ausaf kiya hain."

This is again about 'momin' and 'non-momin'. The word 'haq' has not been understood in proper context, nor has it been translated in proper sense by the prosecu-

tion. The speaker gave us the definition of 'haq parast'—who follows 'truth'. What are their qualifications? They have complete faith in the oneness of God. They put no competitor with Him. They believe in God for all universe—Hindus, Muslims, Sikhs, Africans, Israelis, Indians, irrespective of race, colour etc. There is one God for this side of Kashmir as well as for Azad Kashmir. Cease-fire line does not separate our hearts. Again moral forces and moral virtues are emphasised. 'Haq-parast' are those who have real respect for their parents, particularly when the parents reach old age. They do not hurt their feelings. They offer prayers for their parents.

Their qualifications, therefore, are :

- (i) They have complete faith in the oneness of God,
- (ii) They have affection and love and spirit of service towards their aged parents.

"Teesri sifat haq-paraston ki yih hai ki unke qaribi rishtedar ya hamsaya hon, unka jo kuchh haq ho woh ada karen."

They have a duty not only towards their dear and near ones but to those who are their neighbours. Discharge your obligations towards your neighbour. Now, such a faith can never permit preaching of communal hatred. Kindly note that he preaches all this as a gospel—Word of God. Be just to neighbours.

"Chauthi sifat yih hai ki fazool kharchi nahin karenge woh darmiyani darje par rahenge, woh had se bahar nahin jate."

Do not commit waste. These days abstinence from waste is considered to be the national duty. One must adopt a *via media*—one neither be miserly nor extravagant.

“Woh darmiyani darje par rahenge, woh had se bahar nahin jate.”

One must give up all evil ways.

“Khuda-tala farmate hain ki har ek burai haq-parast ko chhorni chahiye aur haq-parast banen. Sachchai aur jhoot ki takkar tab se shuru hui hai jab se duniya bani magar is takkar men hamesha sachchai ki fateh hui our jhoot nakam raha.”

Not individual virtue but national :

Now, I will beg of your honour to keep this definition ‘haq parast’ in your mind when you judge his observations ; ‘haq’ and ‘batil’, and ‘haq va batil ki takkar’.

These are not only an individual’s virtues, but they are national virtues ; that we recognise the rights of our neighbour, that we adopt a *via media*, that we do not commit waste, that we are kindly towards the aged parents and that we believe in oneness of God.

According to the faith of the speaker and of his community these are indispensable qualifications for a ‘haq parast’ and, according to the tradition of a secular State, you cannot ban preaching of one’s faith. That will come within the mischief of Article 19.

Frank and bold teachings produced unity, martyrs like Sharwani, Abdul Aziz :

Now, Sir, I have questioned the inference that the prosecution has sought to bring out. I have submitted to your honour that this approach was meant for Muslims. Why? Because as a majority community they have tremendous obligations to discharge and a leader of his stature must tell them about duties. He must not be afraid or hesitant like those who shield the mischief of their majority community elsewhere. It is such frank and bold talk that paid us dividends in 1947. Similar teachings produced instances like Sherwani who gave his life for upholding non-Muslims' honour and dignity and like Abdul Aziz, who laid down his life for protecting the honour of non-Muslim brethren. It is this policy which paid dividends in the past.

Islamic historical events referred :

Then he refers to historical events :

“Ek taraf Hazrat Moosa hai aur Firaun muqable men hai. Ek taraf Hazrat Shabbir hai aur doosri taraf Karbala ke maidan men Yazid hai. Ek taraf sach hai aur doosri taraf jhoot. Haq aur sachchai ki alam buland hai. Hazrat Imam Husain ki barkat se unhon ne apna khoon-e-pak Karbala ke ret ke maidan bahaya, usmen se phir gul-o-gulzar ug aye.”

Hazrat Hussain gave his life for the cause of truth and justice.

“Hamesha ke liye qiyamat tak istabadadiyat ka sar kata, jabr aur zulam ka sar kata.”

By that sacrifice he terminated the rule of repression and 'istibadadiyat', or, as it has been translated, 'mutlaq-ul-ananiyat'.

Discharge of duty without fear or favour :

"Azadi ka chaman unke pak se mauj hua. La-Ilaha zabani jama-kharch par nahin hota. La-Ilaha Hazrat Imam Hussain ne Karbala ke maidan men kaha, apne ahl-o-ayal ki parwah na karte hue har ek chiz sachchai ke liye pesh-e-parwardigar ki. Unnon ne yih nara lagaya ki ek Musalman parwardigar ke baghair kisi ki bandgai nahin karta. Magar afsos hai hum chawal ke do ser par bandagi karte hain, ham hazar rupiyon par bandagi karte hain, ham mamooli theke par bandagi karte hain, magar momin woh hai jis ne Allah-taal ke darbar men sar jhukaya."

Take an extreme instance. If a judge compromises his dignity and if a doctor, a teacher or an examiner compromise their positions and fail to do their public duty, there will be chaos and disorder, which lead to general unhappiness of people. If a public servant does his duty conscientiously, keeping the fear of God in mind, he will contribute to public weal and welfare, as well as to national honour. The speaker insists on scrupulous discharge of one's duty without fear or favour. One must follow what is right and truth.

Bow before God alone — like Karbala's hero Hussian:

He says :

"Woh kisi Firaun ke samne kiya sar jhukaye ga. Yazid Hazrat Imam Hussain ko kehta hai ki apna sar meri taraf jhukao magar unhon ne jawab diya ki mera ahl-o-ayal Khuda ki darbar men qurban ho jane

ke liye tayyar hai magar tumhare samne sar nahin jhuke ga."

Hazrat Hussain had to face the tragedy of Karbala ; he was before Yazid. He challenged Yazid, you are not the choice of the people, you have not got the backing of the people, you are committing oppression on the people and you have left the way of God. He was warned that he must either surrender before Yazid or the price will be his head. He said I will pay the price. So he paid it in the field of Karbala. His body was mutilated. But he said "I would not surrender to what I consider to be untruth." Sheikh Saheb related this historical fact in his speech.

Woes and worries result of deviation from high values of life :

Now he has given us the qualifications of 'haq parast'—one who will bow before God alone who is the real giver of life and its comforts. He says not to bow before untruth. That does not mean to disobey the authority and break the law as the prosecution has sought to make out. It is a very unkind twist to construe it as an advocacy to disobey authority and break law.

According to the speaker, the whole tragedy of the world is the worship by man of worldly things and mundane comforts. All the present woes and worries are the result of deviation from nobler duty and giving up of high values of life. How many of us are acting up to that high principle, which is enjoined not only by gospel, but even by the law as it is on the Statute Book. Every officer and judge must do his duty holdly and conscientiously. If I get a pound of rice I am ready to

give any evidence in any court. If I am promised a small promotion, I am ready to slaughter justice.

All may be guilty :

The speaker says "we", all of us, are capable of doing such things these days. Again not any particular individual or National Conference party but every one of us is prone to such failings. All of us in the present age have descended to the depth of degradation.

Your honour may kindly pass over next 10 lines. Now, all through you will see how he is emphasising the moral principles and values and how he is making his audience conscious of their lapses and failures.

Lesson of Hussain's sacrifice :

"Is khoon-e-pak se likha La-Ilaha, ham aise gunehgar ummation ko bhi apne khoon-e-pak se nijat di."

Hazrat Hussain had given his life, thereby he upheld the banner of truth and created an example for us which is alive in our memories :

"Ai Musalmano, agar aap Quran-e-Majeed ka raz samajhna chahte ho to aap ko Imam Hussain ki Karbala ki qurbani ki yad ko taza karni chahiye."

He tells the Muslims that if they want to understand the secret of teachings of Quran, remember always the lesson of Karbala where Hussain laid down his life for upholding the truth. And what is truth? To bow to none except God, not to deviate from that truth. This is the ideal for the whole world.

Self-determination—basic human right :

“Sach aur jhoot ki takkar 1931 se shuru hui. Yih haq aur batil ki takkar Kashmir men tab tak barabar rahegi jab tak yahan ke logon ka tamam mutalba jo ham 1931 se dohrate aye hain, woh haq-e-khud-iradiyat hai.”

Why does he refer to this ‘haq-e-khud-iradiyat’ ? Because self-determination is the crux and corner—stone of human dignity. Why the UN recognises it as the basic principle of its Charter ? Because the nations of the world and statesmen of the world have recognised it as the basic principle of the dignity of man.

If you recognise the self-determination and you would not have racial laws of Africa, if you recognise self-determination you would not have colonialism which enslaves man and you will not shed blood and waste millions in Algeria. This is the fundamental anchor-sheet on which rests the dignity of human being.

Remove that, you kill the man. To the 40 crores of Indians of this sub-continent this right had been denied. It was for the vindication of this principle that thousands and thousands sacrificed their lives in this sub-continent.

What is self-determination ?

Those who do not recognise this right, deny the very dignity of man and crush his soul. Even a man in the street has a right of self-determination. He must be free to determine his fate. What is self-determination ?

Free exercise of one's mind. If you deny that, you kill the mind, the spirit, and make him a slave.

“Jab tak woh hasil nahin hota hai tab tak yih sach aur jhoot ki takkar barabar jari rahegi.”

India as a member of the UN recognises that fact.

History of the movement :

Then he talks about the growth of his organisation which was Muslim Conference in the beginning. Then it was converted into National Conference. Then he refers to “Quit Kashmir” movement and to the resolution of self-determination. He says it was endorsed by the Congress leaders, Khan Abdul Ghaffar Khan, Maulana Azad etc.

“Is silsile men 1946 men ‘Kashmir Chhor Do’ tehrik ke silsile men jail tha, golian thin, musibat thi.”

Self-determination not Prime Ministership—goal :

Self-determination of the people of the State is his goal and not the chair of the Prime Ministership.

“Mahz wazir-e-azam ki kursi par baithna hi mera maqsad nahin tha. Wazir-e-azam ki kursi is safar men ek manzil hai. Is ke bad ham ne asal manzil par pahunchana hai. Yih “thak pind”—thehrne ki jagah—us manzil-e-maqsood tak pahunchne ki thi.”

It is a transitory stage, a halting stage.

“Magar badqismati se kuchh doston ko ghalat-fehmi hui, unhon ne ghalat samjha. Main ne apne doston aur sathion ko samjhaya tha ki yih kursi manzil-e-

maqsood nahin hai balki woh "haq" manzil-e-maqsood hai."

The real goal is not the movement. It is self-determination of the people.

Clash between right and wrong—not a new phase—hence patience :

Your honour may skip over a page :

"Qaum age chalna chahti hai, woh is rasta men roré atkate hain. Is silsila men aap ko mayoos nahin hona chahiye. Yih takkar hamesha hoti rahi hai."

It does not refer to the government.

"Jin doston ne raste ko hi manzil kaha, qaum ko tabah barbard kiya. Qaum age chalana chahti hai woh is rasta men roré atkate hain. Is silsila men aapko mayoos nahin hona chahiye. Yih takkar hamesha hoti rahi hai yih koi nai takkar nahin hai."

Do not be frustrated. How he whittles down the importance of this clash and conflict with opponents. This has come from eternity, this clash between the right and wrong. He waters down the effect of difference with the adversaries so that feelings may not be excited. "We shall suffer but not retaliate". That is very important. "Magar is weerana ko zaroor abad karna hai". We shall rehabilitate the desert-state. This is our view. We believe that it will take 50 years to rehabilitate this State after what has happened.

To soler heights—by faith, not material resources :

"Jab is angara-e-khaki men hota hai yaqin paida,
To kar leta hai yih daman rooh-ul-amin paida."

It (the couplet) was mutilated both by Mr. S.N. Tikoo and Prof. Toshkhani. "When the firmness of Faith is created in this man of clay (i.e. human being) he then rises to solar heights, celestial heights.". Not by his dependence on material resources but by force of faith man attains that glory. Then it is very important :

"Jab insan men yaqin-e-mehkam paida hota hai to usko Jibrael ki tarah par aate hain, woh neeche nahin ata hai, woh kamyabi hasil karta hai."

No sword and strategy but faith :

It is not the sword and strategy, they do not help you in getting freedom from slavery, sword and army do not avail. If you have fervour of the Faith your success is guaranteed.

"Ghulami men na kam ati hain shamsheeren na tadbiren,

Jo ho zauq-e-yaqin paida to kat jati hain zanjirin"

Again, his denunciation of violence and condemnation of instruments of repression and political crookedness is patent.

Mental domination condemned :

Now, 'ghulami' is mental domination. Most of us after the departure of the British are still 'mentally' slaves. That is also condemned here.

Again denunciation of violence

"Koi andaza kar sakta hai uske zor-e-bazoo ka,
Nigah-e-mard-e-momin se badal jati hain taqdiren"

“Can anybody imagine the powerful strength of his arms” ? The fates of nations are changed by one look of ‘Mard-e-Momin’—i. e. man of faith, one who has the faith in God. Certainly Gandhiji changed the whole fate of 40 crores of enslaved people. He denounced the material means, denounced violence, arms and the like.

That is what poet Dr. Iqbal says and this is what Sheikh Mohammed Abdullah preached on that Prophet’s anniversary. ‘Yaqin-e-mehkam amal-e-paiham mohabbat fateh-e-alam’. This is part of the verse—‘unflinching faith, continuous effort and love which conquers the world these three forces which, in struggle of existence, are the sword of the fighters’—not booby-traps and gun-cotton slabs. This is what he preaches. Please mark it.

“Aap kiyon pareshan hote hain, tumhare pass CRP nahin, police nahin, fauj nahin, bandooq nahin, aslaha-o-saman nahin. In cheezon ki zarurat nahin hai. Zarurat nigah-e-momin ki hai. Musalman ban, Allah-tala ko panch waqt yad kar.”

“You don’t want these things, you want the vision of a ‘momin’—man of faith”. He has denounced all material resources.

Such a faith-preacher can’t be accused of violence :

Can such a man who, preaches this as an article of faith, be accused of violence, can he be accused of preaching use of gun-cotton slabs etc ?

Chief merit of speech—addressed to Muslims :

I repeat it is not the demerit of the speech that it was addressed to Muslims on the Prophet’s Day. That is its

chief merit because it is on such an occasion that the words will go deep into the hearts of Muslims. It is such preaching which paid dividends in 1947 when Muslims gave their lives to protect the honour and lives of Hindus. You will kindly mark that he repeatedly insists on 'namaz' as the only means to freedom from repression and worldly worries. He strongly denounces material forces. That shows the intensity of his feeling.

'Momin's' sword—faith and love for all :

“Yaqinan aap ko shamshir, bandooq, 'bomb zarurat nahin. Momin ban, aapki nazren tamam qaum ki taqdir badal dengi. Magar shart yih hai ki momin ban, namaz panjgana parho, “Jehad-e-zindagani men hain yih momin ki shamshiren.” Momin aur mard ki shamshir yaqin-e-mehkam aur amal-e-paiham hai. Momin ko kisi se nafrat nahin honi chahiye woh har ek ki khair chahta hai.”

Now, preaching hatred against different communities and hatred and contempt against the government, are the charges against him. The only person entitled, according to his faith, for Prophet's blessing, for God's kindness, is 'momin' i. e., man of faith. He wishes well of everybody irrespective of race or religion. This is his faith. May I remind you that this is what was suppressed by prosecution.

“Mohammed-ur-Rasool Allah farmate hain: Ai Parwar-digar, meri qaum ko hidayat kar. Woh nahin samajhte woh kiya kar rahe hain. Khuda tala farmate hain kisi qaum ki halat tab tak nahin badalti hai jab tak ki woh qaum khud yih irada nahin karti ki woh apne zindgi ko badlaye. Agar koi usko chawal, rupiya

waghaira ka lalach dekar ghulami ke tauq dalna chahta hai Khuda uski halat kiyon tabdil karega? Khuda tala sirf uski halat tabdil karega jo in tamam cheezon ko laal mare. Khuda tala sirf uski madad dega jo yih khayal kare ki duniya ki koi taqat usko apne is buniyadi haq se mehroom nahin karegi. Delhi ya Karachi men baith kar koi aapki halat nahin badlayega."

The man engaged in conspiracy will not tell that to three lakhs of people. Then he recites the well-known verse. This is from Quran and every reformer has realised it.

Your honour may leave out about 10 lines. Then consider the summing up of the speaker.

Confusion will not terminate until final settlement.

"Kashmir ke awam ka yih azeem ijtamah jis men wadi-e-Kashmir ke kone kone se aye hue 1½ lakh se zaid zan-o-mard hain, hasb-i-zail amoor ki sadaqat par yaqin rakhte hue yih elan karte hain ki (1) jab tak riyasat Jammu va Kashmir ke mustaqbil ko tai karne ke bare men koi akhiri faisla nahin ho pata tab tak riyasati awam ko darpesh siyasi ghair yaqini, iqtasadi bad-hali, dimaghi pareshani aur doosre masail se nijat hasil karne ka koi imkan nahin."

Unless you bring about a final settlement of accession dispute, until then uncertainty, instability and economic and mental chaos in Kashmir will continue. There is no possibility of terminating instability and uncertainty, economic and mental chaos and confusion until some final

settlement is arrived at. The two Prime Ministers also said in September 1960 almost the same thing.

Indo-Pak differences detrimental to Asian peace :

“(2) Hindustan aur Pakistan ke maujooda kasheeda taluqat na sirf Asia ki istehkamat ke liye bhari khatra ka sarchashma hai balki riyasat Jammu va Kashmir ki tabahi ka moojib bhi hai aur in kasheeda taluqat ka sab se bara sabab Kashmir ka jhagra hai.”

He says that the present position is not a danger only to the peace of India and Pakistan but it is a cause of jeopardising the Asian peace.

Permanent settlement through self-determination :

“(3) Riyasat Jammu va Kashmir ke ainda taluqat ke bare men akhiri faisla karne ka haq is riyasat ke awam ko hi hasil hai aur faisla lene ki wahid surat yih hai ki riyasati awam ko apna haq-e-khud-iradiyat ghair-jan-ibdarana bainul-aqwami nigrani men aise mussalima jamhoori tariqe se mauqa diya jaye jis men mutaliqa fariqain ittefaq kar chuke hon.”

He says the only way of bringing up permanent settlement is that the parties should concede the right of self-determination to the people of Kashmir under international auspices, as they have agreed to. And then he gives an alternative :

Some other alternative acceptable to all concerned :

“Ya doosra koi tariqa jo mutalqeen ko qabil-e-qabool ho.”

His worry is to have the final settlement. Therefore, he suggests any other method acceptable to the concerned parties. What he wants is permanent settlement. He does not nail himself down to one method. He seems to say, "All right, if difficulties have cropped up, find an alternative and try honestly to put forward an alternative which should be acceptable to all concerned parties." If a man with such an elastic attitude can be condemned in these days of democracy, then life is not worth living.

Reiteration of the pledge taken 27 years ago :

"Is tajweez ke bare men main ne bahut se taqarir kiye. Main aap se kehna chahta hoon ki is mutbarrak mauqa par kiya aap ko is se ittefaq hai ? Jin ko is se ittefaq hai woh haath oopar uthain. Iske baad main aap se kehna chahta hoon ki jab ham ne yih awami elan kiya ab is mutbarrak jagah, is mutbarrak waqt main aap se ek halaf hasil karna chahta hoon."

This was the 'halaf :

"Kashmir ke awam ka yih azeem ijtamah aaj is mutbarrak din Asar-e-Sharif Hazratbal ke is muqaddas maqam par hurriyat azadi ki rah men qurbani pesh karne aur jadd-o-jehad-e-azadi jari rakhne ke liye us ahad ki tasdiq karta hai ki 27 saal qabl Khanqah-e-Mualla ke sehan-e-pak men kiya gaya tha."

27 years ago we had taken that vow in Khanqah-e-Mualla.

"Riyasat Jammu va Kashmir ke ilhaq ka akhiri faisla tahal nahin ho gaya hai aur is amar ka elan karta

hai ki jo log dawa karte hain ki Assembly ke zariya unhon ne ilhaq ko takmeel kiya hai, woh apne haq se tajawuz karke ghalat bayani karte hain."

They accept their right.

I shall come to the political and legal side of this problem and shall point out that the Constituent Assembly had no power to decide this question of State's accession. He says that the people who say that the Constituent Assembly has decided the question, they transgress their limit.

After 9th August '53, Assembly forfeited people's confidence :

"9 August ko hakumat ka takhta ulatne ki jo sazish baroo-e-kar lai gai aur us ke natija men koi Assembly hi aisi na rahi jiske araakeen ki aksariyat ko awam ka etmad hasil ho."

He says that the Assembly after the events of 9th August, the Constituent Assembly, had forfeited the confidence of the people completely and therefore was not competent to take any decision. That is why you locked us up during the general elections. This conspiracy is also concocted to give a fresh lease of life to the people who were manoeuvred into the office on 9th August 1953.

"Ham is yaqin ka izhar karte hain ki Kashmir ke ilhaq ka akhiri faisla wohi hoga jo haq-e-khud-iradiyat ka istemal kar ke riyasat ke awam androoni aur bairooni dabao se azad reh kar jamhoori tariqon ke mutabiq sadir karenge."

People of the State, without internal or external pressure, are to take a free and fair decision in a plebiscite. That would only be the correct and official disposal of the State.

Call for "qurbani"—to suffer patiently and without retaliation :

People take a vow :

"Ham halaf uthate hain ki awam ko is haq ko hasil karne ki apni pur-aman aur musalsal jadd-o-jehd ko munazzam tariqe se jari rakhte hue is rah men qurbani dene se daregh na karenge."

The movement is to be strictly non-violent and peaceful. Again, "rah men qurbani dena." In that path we shall suffer hardships of all manner. Essential concept of 'qurbani' is to suffer patiently and without any thought of retaliation. It completely excludes the idea of violence.

Vow taken on Prophet's Day in Holy shrine to remain peaceful and above-communalism as ever before :

"Main aap se kehna chahta hoon, apni taraf se aap bhaion aur khawatin se kehna chahta hoon, unko apne dil men tahiyya karna chahiye ki 27 saal se jo yih tehrik firqa parasti se balatar rahi, ayanda bhi ham isi rah par qaim rahenge."

Kindly underline these words. 'Ayanda bhi ham isi rah par qaim rahenge'. This was another point on which vow had been taken in the holy shrine of the Prophet of Islam on the most sacred occasion. One is that they shall be peaceful and second is they shall be above-communalism.

Non-violence, truth and self-purification insisted :

“Ayanda bhi yih hamari tehrik baghair tashaddud aur sadaqat par qaim hogi. Jab aap ne yih elan kiya aur iski tayeed ki, ab is ki kamyabi ke zarae kiya hain ? Ek hi cheez zarurat hai, woh islah-e-nafs hai. Agar aap kamyabi chahte hain, islah-e-nafs karo.”

Purification of one's own self is insisted on ; give up fraud, cheating, give up even the thought of using violence and hatred and contempt. If you have faith in God, His mercy and help then it is ensured for you.

Again faith, patience and prayer :

“Agar aap Khuda ki taqat par bharosa karte hain, Khuda ki taqat phir aap ke liye makhsos hai, aur kisi ke liye nahin. Jab aap ko koi mushkil pesh aye us waqt aap sabar aur namaz se Khuda se yari mango.”

When you come across difficulties, have patience and forbearance. A person who would desire chaos, embarrassment and complications in the government, a person desirous to overthrow the government, will not ask the people to cut down their expenses, eat half a bread and live in contentment and suffer with patience. A person anxious to create chaos in the State, incite people to disorder and overthrow the government of the State, will not preach this.

Popular help sought for new 'nest' (organization) :

“Taqrir khatam hone se pehle main aapki tawajah is bare men dilana chahta hoon. Aap ko maloom hai ki

1953 men jo toofan aya aur jo jo ghonsla ham ne banaya tha us par ek tez hawa aai aur woh ghonsla tabah hua. Ab naya ghonsla banana hai. Jab pehle woh ghonsla banaya tha us men aap ki imdad hasil thi. Hamara sarmaya sirf aap ka chanda tha. Hamara woh ghonsla tabah hua. Ham iman par qaim rahe. Zarurat hai woh ghonsla ham ne phir banana hai''.

The old National Conference—that mighty organisation—is now no more. It has gone to bits. As I explained in my statement, this National Conference "CIA ki laundi bankar reh gai hai". The speaker says : "Woh ghonsla ham ne phir banana hai". Can we not even talk about National Conference now ? Can we not criticise it ? Is that treason ? That is the freedom we have got.

No Pakistan money :

"Aap ke paas hamare dost ayenge, unhen nehayat khule dil se madad karni chahiye jis se ham yih tehrik aage chala saken''.

This is a direct refutation of the allegation that money flows in from Pakistan and we are given funds by Pakistan.

Young workers thanked—No regular volunteer organization :

"Akhir men main un tamam naujawanon ka jinhon ne meri nazarbandi ke riha hone ke baad jo intzamaat kiye hain apni taraf se aur aapki taraf se unka shukriya ada karta hoon. Agarche hamari tanzeem baad-e-mukhalif se tabah hui hai, hamare pass baqaida

razakaron ki jama'at nahin hai, lekin ek baat hai. Jab naujawanon ke dil harkat karte hain tab saal bhar ki tanzeem ki zarurat nahin hai. Naujawanon ko yih khayal khud hi aya aur sainkron ki tadad men shahr gaon se aye. Khuda tala unko taufiq de".

After the disruption of the National Conference, we have got no regular organisation of 'razakars' or volunteers.

Prosecution distorts meaning of 'Razakar' :

As usual this word 'razakar' has been distorted by the prosecution. 'Razakars' mean nothing but volunteers. 'Raza' means 'free will' or voluntary and 'kars' means an 'act', i.e. one who volunteers. Your honour will recollect that somewhat horrible interpretation was given to this word by the prosecution. "It is not an ordinary batch of people" they said. I repudiate all such insinuations. "Razakars" is a commonplace organisation attached to any political body. We in Kashmir since 1931 have called them "razakars". "Seva Samiti" is the parallel organisation which keep order on the occasions of functions anywhere. It is the self same body of "razakars" who rendered services, maintained order and looked after things in the crisis of 1947. We in J&K have had Persian as court language since ages. It is unfortunate if they are frightened by words or perhaps they hate Persian today. Look at terminology used by Dogras, look at revenue terms, other terms. All these are Persian because we are a sort of Persianised people—both Hindus and Muslims. 'Razakar' means volunteer and nothing more.

“Main dua karoonga aap amin kahen. Doosri baat yih hai ki jo lorry driver hain jinhon ne shehr aur gaon se zaareen laye hain unhon ne unke saath nek salook kiya hai. Akhir men ai Khuda tere aajiz bandon ne aaj is maqam par jo elan kiya aur uski tayeed hui aap us men barkat den. Aajjo is jagah halaf liya gaya us par ham mustahakam hain. Is halaf ko poora karne men hamari madad kar aur hamen tamam musibaton se nijat de”.

Speech full of spiritual nectar—faith, non-violence and self purification—not a single word of incitement or hatred or provocation :

This finishes the speech of this fateful day of 21st February. At that time National Conference, our opponents, only a few hundred yards away, at Rajbagh, were preparing to stage another conspiracy against us which resulted in the death of Mohiuddin Banday. I challenge the prosecution to point out a single word in the whole speech, of excitement, hatred or to overthrow the government by force. I challenge the prosecution to point out a single word which will provoke anybody. On the other hand I claim, without fear of contradiction, that the speech is based on enunciation and emphasis on (1) non-violence, (2) love, (3) spiritual powers and moral values, and (4) self-purification. Simultaneously, it is a complete denunciation of use of armies, bombs and war materials as a means to achieve political ends. It is a complete denunciation of these. In a free country where dignity of man is the criterion of good character of citizens, the gold medal would have gone here and not to Ghulam Qadir Ganderbali and people like him.

I have done with this speech.

Court : What will be the next speech ?

Beg : Of 28th February, 1958.

(*After Recess*)

No record of derogatory slogans :

Your honour, I am not going immediately into the next speech. In his speech of 21st February your honour will note the slogans. There is no derogatory slogan on record, whatever witnesses might say orally is different. This is the document alleged by the prosecution to have been prepared during the occurrence, i.e. the delivery of the speech. And it does record slogans which are only complimentary to Sheikh Saheb and repetition of plebiscite in Kashmir and the slogan of oneness of God—'Nara-e-Takbir'. Whatever is now, 2/3 years after the incident, being said orally is wrong and no notice can be taken of that.

Simple reference to eternal struggle between right and wrong distorted by prosecution :

Secondly, prosecution has referred to expressions like 'haq va batil ki takkar', 'Firaun va Moosa ka muqabla', in the speech. They have sought to make out from this a reference to clash between Bakshi Saheb and ourselves. This is a distortion. It is absolutely unwarranted by the context of the speech, by what precedes it, what follows it, and by the passage itself. Your honour will take note of this verse that has been cited in this context :

"Moosa va Firaun va Shabbir va Yazid,
Een do quwwat az hayat ayad padeed".

The speaker does mention Moses and Pharaoh, Shabbir and Yazid. Now, he symbolises these two indi-

viduals as forces of right and wrong—a continuous struggle being represented respectively by Moses and Shabbir on the one hand and Firaun and Yazid on the other. The poet has symbolised them. Now the significance is in the following 'misra' :

“Moosa va Firaun va Shabbir va Yazid
 “Een do quwwat az hayat ayad padeed”.

Life being dynamic both are live forces :

These two forces are born of life itself, the scheme of life gives birth to these conflicting forces. That is, this is inevitable with life. It is in existence from eternity and will continue till eternity. From the birth of the universe till its end this struggle shall continue.

It is in its very life itself. Why ? Because the life is dynamic. It is not static and unless there are conflicting forces, life will be static and will end. These two forces are in the very scheme of life, the forces of light and darkness. Now that is the correct perspective and the speaker has throughout said that :

“Sach aur jhoot ki takkar tab se chali hai jab se
 duniya bani aur tab tak rahegi jab tak duniya qaim
 hai”.

Academic discussion of philosophy—misinterpreted to mean individuals :

Look at that correct perspective. You cannot apply it to Bakshi Ghulam Mohd. or Sheikh Saheb. You can apply it to life in general because these forces will continue after Bakshi Saheb ceases to exist or Sheikh Saheb

ceases to exist. This is the philosophy irrespective and independent of Bakshi Saheb's or Sheikh Saheb's existence. He says this is the scheme of life. Similar is the teaching of Mahabharata and Gita, that forces of darkness and light will be continuously in clash. It does not refer to particular individual. It universalises the issue. That is my answer to the prosecution's distortions of the facts. The speech does not refer to individual persons. It is just a philosophy of life in general.

Facts and prosecution evidence belie allegations u/s 121 A :

Now, Sir, I have to draw your attention to the fact that there is absolutely no, not even the remotest, evidence available to support allegations u/s 121A. The ghastly untruth that on that fateful day, as a result of this speech, there was a riot has no basis whatever. In justice and law your honour will take note of the fact, and this is a common ground—that the speech ended at 2.15 p.m. People went in for 'zuhar' prayers. (This is in evidence. P.W. Shiv Nath Tikoo also admits it). Then there was 'ziarat' followed by the 'asar' prayer. After that there was 'salam'. All this, even according to prosecution calculation, took three hours after the speech ended. These three hours were utilised in what? In prayers to Almighty God in the sense and spirit in which the speaker had sermonised, i.e. in complete 'khashoo and khazoo', and after that was 'salam'.

Every devotee of the Prophet in that milling crowd, which requires seeing to believe, wanted to have a glimpse of the sacred hair and there was 'salam'. And after these religious performances, the ghastly allegation

is that a crowd went and attacked the National Conference people. The allegation made by the prosecution is far from truth. Not only was there a gap of 3 hours but the way gap was utilised negatives the possibility of clash, conflict, bitterness, fight or feud, because the minds were otherwise conditioned meanwhile.

Meritorious role of the accused :

In that state of mind we are told that men like Sofi Mohd. Akbar, whose life has been dedicated to maintenance of communal harmony, led a violent crowd. Sofi Saheb is an ex-Member of the Indian Parliament, is ageing and ailing, who would himself have been, God forbid, kicked out of existence by anybody. Even worst enemies have not accused him of violence. Kh. Ali Shah, ex-Deputy Minister, is similarly accused. He is a man devoted to prayers. Another accused in this category is Maulana Mohd. Saeed Masoodi who nearly lost his life during raid of 1947. Maulana is known for his peaceful ways and has dedicated himself to the ideals of secularism. Both Sofi Mohd. Akbar and Maulana Mohd. Saeed Masoodi were members of the Congress Party in Parliament. And Mr. Ghulam Qadir Butt, accused No. 1, in the Hazratbal Case, led the Indian Army in 1947 to Kargil and Leh, through impassable passes and unscaleable peaks and made possible for the Indian Army to reach those farthest ends where today another foreign country has invaded the State. He led the rowdy crowd on 21st February, 1958, your honour is told. Your honour is also told that Ghulam Mohd Chikkan, ex-Deputy Commissioner of the raider-ridden Baramulla in 1947, when no officer agreed to go there to rehabilitate the uprooted population and restore civil administration,

led the crowd to commit riot etc. All this is nothing but a brazen-faced lie. Also Mr. Hamdani, who is accused in this case too, is charged of having led the attack at Rajbag on 21st February. He was a Deputy Minister. Perhaps by temperament and nature he would not kill a fly. He runs away at the sight of a mouse.

Absolute fabrication :

According to prosecution, the intention of these gentlemen was to stab Mohiuddin Banday, a non-entity as a member of the National Conference, with a view to overthrow the Jammu and Kashmir Government. We say that this is absolute fabrication. The whole incident is a result of CIA and National Conference intrigue and conspiracy against us. All this is fully brought out at this stage even by the speech of Sheikh Saheb itself.

Police officer well-versed in his 'art' of roping :

At this stage, let me refer your honour to the statement of Pt. Shri Kanth, S. H. O., prosecution witness 138. He is the investigating officer of the Hazratbal case. He is an eye witness also, according to the prosecution story. In this dual capacity he comes before the court of law in Srinagar to depose on the basis of the knowledge he derived from investigation and also the knowledge he directly derived as a witness on the spot. I have cross-examined him. With your permission I will ask Mr. Mohd. Latif to read that, at page 1720 of the record :

“.....Yih mera bayan hai. Is par mera dastkhat bhi hai. Yih mera bayan us Hazratbal waqia ki nisbat hai.....

“*Sawal* : Kiya is bayan men aap ne kahin zikr kiya hai ki Ghulam Mohiuddin Saheb Hamdani, Sofi Mohd. Akbar Saheb, Ghulam Mohiuddin Shah mulziman va Hisamuddin va Ali Mohd. Butt, razakaran ki duty us roz waqua ko muqarrar karte the ?

“*Jawab* : Mazhar ne aisa us bayan men nahin kaha hai.

“*Sawal* : Kiya us bayan men aap ne kaha hai ki Kh. Ali Shah, Kh. Ghulam Mohd. Chikkan, Mirza Ghulam Qadir Beg, Pir Mohd. Maqbool Vilgami, Mohiuddin Shah, Sofi Mohd. Akbar, Ghulam Mohiuddin Hamdani waqua par us roz Hazratbal men hazir the ?

“*Jawab* : Nahin.

“*Sawal* : Kiya aap ne us bayan men is naraha ka ‘ghaddaran-e-qaum ko khatam kardo, Bakshi Hakumat Murdabad’ zikr kiya hai ?

“*Jawab* : Nahin.

“*Sawal* : Kiya us bayan men aapne zikr kiya ki Mahaz Rai Shumari ke board, shamiana, dangan aur campon par lage hue the ?

“*Jawab* : Nahin.

“Sawal : Kiya aap ne usroz us bayan men jitlaya hai ki Sheikh Saheb ki taqrir ka labb-o-lubab Hazrat Hussain va Yazid ki larai, haq-o-batil ki jang, Hazrat Moosa aur Firaun ki kahani ya yih ki maujooda hakumat ko jhoot batlaya gaya jaisa ki adalat hiza men aap ne batlaya hai ?

“Jawab : Mazhar ne is ka zikr us bayan men nahin kiya hai. Mazhar se yih wahan nahin poochha gaya hai.....

“Sawal : Yih bataiye ki Sheikh Mohd. Abdullah ko aap ne us muqaddme men mulzim kiyon nahin gardana ?

“Jawab : Sheikh Saheb e’anat men mulzim the lekin irtakab ke waqt woh wahan maujood nahin the. Chalan men unka chalan kiya gaya hai jo unhon ne irtakab kiya tha. Sheikh Saheb ko mulzim na gardana-ne ke liye meri kam samjhi hai.

“Sawal : Kiya warna aap ki danist men woh mulzim the ?

“Jawab : Woh e’anat men mulzim the.....”

Sir, my comment on this statement, which I wrenched out of him in my cross-examination, is very obvious. He admits that all these gentlemen—Sofi Mohd. Akbar, Kh. Ali Shah, Kh. G.M. Chikkan and Hamdani—were not named by him as leaders of the unruly mob in Hazrat-bal Case. He says he was not asked that there. The State was represented duly there by their able counsel and their presence is recorded on the file. His answer

that I was not asked that question is not acceptable for the mere reason that he is a very experienced police officer. He roped in all the accused. He knows what are the important facts of his case. He knows what are the ingredients of the offence. He knows the alleged criminals. He comes there to depose who have committed the offence and what part each has played in the alleged commission. He would not require a counsel for guidance.

Inescapable inference—entangled gentlemen not present on the spot as alleged :

He has prepared the case, he has collected the evidence against individuals and investigated it. Therefore he would know which individuals were connected with the offence. He would tell the court, he would know the effect and importance of the evidence which he gave there, he would know importance of the fact that certain individuals led the crowd. He would not drop this powerful fact from the evidence if it were true. As an investigating officer, he is expected to know all this. And if he has not named the gentlemen there, the inescapable inference is that he has not named those who actually were not there.

Alleged slogans—figment of imagination :

Second point is, he has further proved that he is in this court adding glossary to his evidence. He has given your honour certain degoratory slogans which, he says, were raised by the Hazratbal congregation. These slogans he has not mentioned in the Hazratbal trial. Here he adds them to his statement. They are mere imagination,

figment of imagination. In the matter of slogans, specially your honour should go only by Shiv Nath Tikoo's record and not by the oral statement. That record has been made during the process of the speech or the speeches.

No accused arrested on the spot :

Thirdly, and this is an important legal point—the process is that this PW, Sri Kanth, S.H.O., alleges that Sheikh Saheb committed an offence of abetment and that the riot was in pursuance of his speech. Why did he not make Sheikh Saheb an accused in the Hazratbal Case? He says that Sheikh Saheb had left the place. Who had not left the place? Did he arrest Kh. Ali Shah on the spot?

Hazratbal incident—result of National Conference-cum-police conspiracy :

The question is that if according to the prosecution the Hazratbal riot was caused by Sheikh Saheb's speech, Sheikh Saheb would be the appropriate accused in that case. Prosecution did not do so. Therefore, it is all made-up story, a sheer concoction. The whole thing has a make-belief. When I asked Sri Kanth, [why he did not include Sheikh Saheb amongst the accused in the Hazratbal Case he answered "Meri kamfehmi samjhiye", which is a very funny answer! Assuming that Hazratbal riot took place, the first conclusion is that Sheikh Saheb's speech had nothing to do with it. Otherwise Sheikh Saheb will be the principal accused for having excited murder and riot etc. The answer like 'Isko meri kamfehmi samajhiye' cannot be accepted. These are my broad observations. The speech had nothing to do with the riot; the Hazratbal incident was the result of National Conference and police conspiracy to perpetuate fresh atrocities on us,

(C)

Exhibit 269/F/1, Speech dated 28th February 1958.

I now proceed to the next speech delivered on 28th February, 1958.

Homage to Maulana Azad :

Maulana Abul Kalam Azad had passed away. After having prayed for the soul of the Maulana, Sheikh Saheb refers to another blow which was struck as a result of police-cum-National Conference conspiracy on our people. The speaker refers, in this speech, to the effect of this double below.

No intention to make speech but compelled :

“Pichhle hafte men ajeeb-o-gharib waqeat hue hain. Is wadi-e-Kashmir men aksar jo hamare dost hamare karkun hain woh shahr gaon men giraftar kiye gaye aur mukhtalif thanon men qaid pare hain. Yih bare pareshan hain. Mujhe aaj yahan taqrir karne ka koi irada na tha.”

Expressed absolute helplessness :

Kindly read about 10 lines thereafter :

“Magar yih jo halat paida hue un se main majboor hua ki main taqrir karoon. Yih jo ham

men pareshani hai unke bare men mere kiya khayalat hain. Is ke bare men main apne doston se tabadla-e-khayalat karoonga. Is se pehle main aap se kehna chahta hoon ki Kashmir men afwah bazi bahut hoti hai. Bajuz Quran ke hamare paas aur kuchh nahin. Main is se yih dikhana chahta hoon ki ham ne kiya karna hai. Mere samne ek be kasi ki halat hai.”

He expresses absolute helplessness. Would that be the tone of a man who would be preparing people to overthrow the government? He will not tell them that he is helpless. He will tell them he has every power and strength. “Mere samne ek be kasi ki halat hai.” Again in this helplessness, guidance sought from God.

“Agar is silsile men hamen Khuda ki hidayat na hogi to ham kiya kar sakte hain?”

Again recourse to God, no incitement :

This is a passage referred to by the prosecution. I beg of you to concentrate on this. It says :

“Mere samne be kasi ki halat hai.”

Helplessness ! Presumably, most of our colleagues and sympathisers had been arrested and absolute privation and oppression prevailed. Again, recourse is had to God for guidance. No inference whatever can be drawn from this that the speaker was exciting people to communal hatred, exciting them to violence, inciting them to prepare to overthrow by force the Government of Jammu & Kashmir State. On the contrary, his theme is the old established one—recourse to Almighty God,

Support and spread justice and truth :

“Haq ki himayat men poori koshish karo. Insaan ko koshish karne ka haq hai.”

Justice rules out path of violence, hatred, contempt and things of that sort.

“Kiyonki Musalmanon ko Khuda tala ke kamon ki lagatar aur musalsal koshish karni chahiye. Woh koshish jo ek Musalman ko Khuda tala ki sachchai phailane ke liye karni chahiye.”

‘Spread truth and not falsehood’, he has asked his followers. Now that is the theme of the next 4/5 lines.

Further stress on godly precepts and prayer :

“Tum ne Allah tala ke dartaar men sar jhukaya hai, is liye Allah tala ke ahkam ko is tarah banana chahiye jo ek Musalman ke liye lazim hai.”

He reminds them that they have bowed before God,

“Is liye Allah tala ke ahkam ko is tarah banana chahiye jo ek Musalman ke liye lazim hai ta ki aapka paighambar aap par shahid rahe. Baqi duniya ke logon ko bhi shahid rakho.”

Now, on that day large-scale arrests had been made throughout the length and breadth of the Valley, his colleagues had been put in the ‘zabakh khana’ and police lock-ups and worst type of tortures had been inflicted on his sympathisers. That background we have to keep in mind.

“Is ke alawa aap ko namaz-e-panjgana par qaim rehna chahiye. Yeh kisi bhi surat men ek Musalman

ko nahin chhorni chahiye. Agar aap bimar hain to isharon par namaz parhni chahiye. Is ke alawa Khuda tala ka daman mazbooti se pakarna chahiye. Yahi aap ke liye sahih hidayat hai."

Prayer and prayer again :

Look at his repeated emphasis on prayers, Sir,

'Aur mere liye bhi yahi sahih hidayat hai. Yih ek tariqa hai apne haq ko qaim karne ka, chahe ham par lakhon musibaten kiyon na ayen. Ham apne haq se mehroom nahin ho sakte hain agar ham sahih usoolon par karband hain. Allah tala ka daman mazbooti se pakarna chahiye."

There is no other way except through prayers. That I ne must exclude any possibility of contempt, hatred or violence. 'Namaz' and 'namaz' is his watchword.

God, the only Helper :

"Allah tala hi tumhara dost hai. Wohi tumhara sahih madadgar hai."

Read all this in the light of allegations about booby-traps, hand-grenades, bombs, Pakistan money etc. Those who prepare mobs for riots, murders and overthrow of government will not say

"Wohi tumhara sahih madadgar hai. Is waqat apke samne jo mushkilat hain unka ilaj aap ne sochna hai."

Is it a rioter's terminology ?

No conspirator will say :

“Yih sabar aur tahammul se sochna hai. Josh men nahin aana hai.”

You have to ponder over it in patience and with forbearance. “Josh men nahin ana hai.” He insists that any possibility of mental excitement and provocation should be ruled out. A rioter will speak other language.

“Kiyonki masla jo hamare samne hai bahut pechida hai. Yih masla sabar se hal kiya ja sakta hai.”

Four great principles :

His feelings have been taxed to the extreme yet he preaches the gospel of patience. Kindly go ahead about 4/5 lines. He gives them four principles :

“Tarikh is haqiqat par gawah hai. Usko bajuz khasare ke koi cheez hasil nahin hoti hai. Ab jis ne char usoolon par nazar rakhi hai, jis ne zindagi ke char usoolon par nazar rakkhi hai woh khasare men nahin parta hai. Woh char usool kiya hain ? Awwal, woh jis ne Allah Tala ki wehdaniyat par iman laya ho.”

There is one exception to the generality that man is a loser. God says, “Verily, the man is loser as the history showeth. Who is not a loser in this world except the one who has faith in the oneness of God ?” Quran emphasises the oneness of God because it wants to enjoin on its followers that He who is your God, is the God of all others in the universe—oneness of mankind, rather the whole creation, is the underlying idea.

“Jisne yih nara diya ho—La Ilaha Il-Allah—jis ne na sirf zabani yih nara diya hai.”

This is the first qualification—faith in God. Those who do righteous deeds 'woh khasare men nahin rahenge'. Those who recognise mutual rights and obligations and justice for each other and those who are just to their neighbours, they are not losers.

“Jab aap apne hamsayon aur doston ko haq par qaim rehne ki talqin karenge to is men mushkilat aur khatrat pesh ayenge, magar akhir kar aapko khasare se nijat milegi.”

Preaches patience and forbearance :

Then he concludes :

“Is liye mushkilat aur taklifat ko sabar se bardasht karna chahiye.”

Again he preaches patience and forbearance.

Then, about four lines thereafter :

“Allah tala ki hidayat yih hai ki haq ki jo awaz tum ne uthai hai, chahe jis rang men pesh ho magar usko barabar qaim rakho, us ko kabhi apne haath se na chhoro. Us ke prachar men jo jo mushkilat ayen woh sabar se bardasht karo. Allah tala ka daman pakarna chahiye”.

Speaker unfolds his information on facts :

He had received information that the opponents will create this disturbance.

“Main ne is bare men hidayat di thi ki kafi intzamat karne chahiye. Unhon ne apas men meeting ki thi aur us men ikhtilaf hua tha. Kaiyon ne kaha tha ki

yih theek nahin hai, ziarat ke din aisa karna theek nahin hai. Magar un men se jo zar-khareed the woh us par qaim rahe."

Then your honour might come down 4/5 lines.

"Ek ruswa-e-alam insan jis par Assistant Superintendent ya Superintendent Police ki wardi thi woh unke age age "Khali Kashmir, Khali Kashmir" ke nare lagate hue das bis admi the. Yeh nare woh do, arhai lakh admion ke samne lagate the, woh nare lagate lagate razakaren ke kamron men aye. Unhon ne wahan par jis kisi ko dekha us ko marne lage. Jalsa men bhi unhon ne yih koshish ki thi. Uske baad woh Raja Bagh men jama hue. Yahan par ziarat aman-o-amaan se khatam hui aur zaereen gharon ko wapis jane lage. Wahan par ek goonda loud speaker par gali galoch karne laga to logon ne yih bardasht nahin kiya, unhoh ne unko bura bhala kaha. Choonki unke pas dande the, unke pas tezaab waghaira tha, doctor waghaira ke pas jo tezaab spirit waghaira tha woh unhon ne logon ke oopar phenka. Unke pas jo sarkari jeep thi, apni koi nahin kiyonki unke pas shab dar-sham guzara na tha, us jeep par phenka aur usko aag laga di. Unke saath ek admi tha jiske pas chhuri thi. Bahar hal das pandrah minute wahan jhagra hua. Usko chhuri chalai gai. Uske baad Ghulam Qadir, Sher-e-Ganderbal jo ghar ja raha tha, Ali Mohd. Butt bhi uske saath tha, raste men Qadir Ganderbali danda haath men lekar tha. Usne Ghulam Qadir Sher-e-Ganderbal ko pakra aur peeta. Woh behosh hokar lorry par charhaya gaya aur phir usko zabah khana le chale gaye jis ko thana Kothi Bagh kehte hain. Is par

yih mamla khatam hua. Phir woh shahr men gaye. Wahan par agar kisi ko ghari ya aur koi cheez tha, us se woh cheez loota gaya."

About 7/8 lines after this :

"Meri giraftari men hi unhon ne list banai thi. Yih fehrisht un admion se mashwara kar ke banai thi jinhon ne apna iman 50/60 rupyon par farokht kiya ho ki tamam log meri giraftari se pehle giraftar kiye jawen. Yih sirf yahan par hi nahin yih silsila Delhi se lekar yahan tak chalta tha. Jab yih list unhon ne Delhi liya to wahan unhon ne nahin mana. Unhon ne kaha ki meri rihai se pehle hi aisa karna theek nahin. Unhon ne kaha riha zarur hamne us ko karna hai kiyonki tamam duniya men ham badnam hue hain. Chunanche jab meri rihai amal men lai gai mujhe ittela aai ki mujhe doosre hi din giraftar kiya jayega. Chunanche mujhe ittela mili ki yahan se chhor kar mujhe Maula Bakhsh ke bangle men band rakhenge".

He refers to a talk between the IGP and Sheikh Sahab :

"Agar mujhe qaid hi rakhna hai to mera liye yahan hi achha hai aur agar mujhe chhorna hi hai to riha karo warna main idhar hi theek hoon. Phir jab woh mujhe raat ke waqt Srinagar lena chahte the to main ne kaha ki main koi daku nahin hoon. Main 4 saal begunah jail men tha. Main ne azadi ki tehrik men Jawaharlal Nehru ke saath dosh badosh lara hai. Agar hakumat itni zaleel harkaten karti hai to main aapka order manane ko tayyar nahin hoon."

In case the government does some degrading things, then he will not obey his order.

“Main Bakshi Ghulam Mohammed ki hakumat ko nahin manta hoon”. This is highlighted by the prosecution. This refers to an incident in Kud jail. He says :

“Main Bakshi Ghulam Mohammed ki hakumat ko nahin manta hoon. Woh das bees dakuon ki jama'at hai”.

I am commenting on this document as it is before me, with all the assumptions made by the prosecution. How did on 9th August Bakshi Ghulam Mohd. become Prime Minister ? Not through legal ways. The speaker might be commenting on that.

Rule by un-constitutional means and strength of force :

On that day Constitution was scrapped, no reference to the Legislative Assembly was made for vote of confidence. That procedure is the corner-stone of a democratic constitution. All means other than constitutional are illegal.

“Unhon ne tumhare bandooqon ke bal boote par meri kursi chheen li aur hakumat karte hain. Woh CRP waghaira ko Hindustan wapis bhejen.”

As soon as the Prime Minister was dismissed, the cabinet was dissolved. This was a unique procedure, unknown to constitution and law. It was cold-blooded murder of democracy. They are ruling by ways other than the constitutional.

They had to kill many people. Why ? To silence them.

Reference to constant interference by Police, CRP etc.

He is referring to the continuous interference by the Police, the CRP, Kashmir Police, Special Police and Peace Brigade.

“Aur aap dekhenge ki kiya woh ek ghanta bhi haku-mat men reh sakte hain.”

Govt. have no popular support—Independent source's view :

In my statement u/s 342, I have quoted world statesmen, like Lord Birdwood who says that Bakshi Ghulam Mohd. will feel less confident if Indian bayonets were removed. That is an evidence from independent source. It is no offence to comment like that.

Sheikh Sahab had fresh in mind how CRP had acted. He mentioned that fact. Why should they stop people from joining the reception? Opposition members in India say that the government is in office with the support of police force. Such criticism is allowed in democracy. And Kashmir government has been using Kashmir Police for its political and party ends.

It is not we alone who say that. Sadiq Sahab, a few days earlier, and Pandit Prem Nath Dogra even now say that government are using police for their party ends. Look at the municipal and other elections. There was all-round goondaism. Elections were a farce. Even Mr. Sadiq, in his presidential address, exposed the fraudulent character of elections.

Prosecution twists the soul of passage :

Any way, that is the sense in which Sheikh Saheb says, "let these people withdraw and stand aside", "Unko awam ka etmad hasil nahin". It is a misfortune that Mr. Pathak should not have read this part of the speech. This is the soul of this passage. Sheikh Saheb says that their support is police. If they claim that the government has the people's support, then Sheikh Saheb says "let the police step aside". That is to say that government does not enjoy people's backing. This was twisted by the prosecution as a directive to the police to go away so that we create disorder and lawlessness. That is very unfair and unkind.

Greatest distortion by prosecution :

He says that these ministers do not enjoy the confidence of the people and from this the inference drawn by the prosecution is that Sheikh Saheb has asked the Indian Army to quit and make room for Pakistan Army to march in ! How splendid is that logic ? This, the greatest distortion. That inference is not at all warranted by the context.

Speaker has respect for an officer of law :

"Main ne kaha ki tumhare fauj aur bandooqon par jo khare hain woh ghabdar hain. Main ne unko kabhi qabool nahin kiya hai. Baqi agar aap chahen to mujhe zabardasti pakar sakte ho. Usne jawab diya main munasib nahin samajhta hoon. Main ne kaha ki bahasiyat Prime Minister ke meri aap se pehle mulaqat hui hai. Mujhe aap ka ehtram hai magar

bahasiyat Inspector-General Police ke main aap ka hukam manane to tayyar nahin hoon."

i. e. 'ghaddar' means that they are not faithful to the people because he is talking in terms of people's confidence. He had told I.G.P. that as Prime Minister he had met him before. He expressed respect for the IGP as an officer of law and order. He tells masses all this that he respects IGP. Will he say that if he intended to rouse the people to lawlessness? I dare say that no word justifies the inference which the prosecution has drawn.

Narration of provocative experiences on release :

Secondly, there is no word which advocates violence or even a threat to take to violent methods or spread communal hatred. Step by step he relates the provocations given to him at Kud. Your honour will read it yourself. He was denied even shelter for one day. Trouble was created in Dak bungalow. He was turned out of jail where he had lived for 4½ years, without allowing him to make preparations. Outside the jail, he was asked to vacate the dak bungalow on the pretext that no visitors could stay for 3 days. He thought of going to a Sikh gurudwara and stay there. They refused to give him transport or telephone facilities. It was winter. There was provocation step by step. Finally, in Verinag they got the dak bungalow locked up to humiliate him and to refuse shelter to him in that winter night in Kashmir. And this was done by one of the local Halqa Presidents of the National Conference.

Then he relates that one time the bogey of American conspiracy was invented against him, then he was dubbed

as a communalist and imperialist agent. Then he refers to the present occasion when, as a result of conspiracy, large number of his colleagues has been arrested who are being beaten in the "zabab khana".

Forceful advocacy of peace and friendship :

Your honour will apply your mind to page 186 which gives the conclusion :

"Bahar hal main kehta tha ki halat kaise hain. Is silsile men jo waqiat runuma hue. Hamen fitna-o-fasad se dilchaspi nahin hai. Masla aisa hai jo fitna-o-fasad se tai nahin ho sakta hai. Main chahta hoon ki Kashmir, Hindustan aur Pakistan men ek aisi fiza paida ho, woh aman ki si fiza ho. Yih jhagra dosti se tai ho sakta hai larai se nahin. Hindustan ke karoron admion aur Kashmir ke lakhon admion ne is barr-e-azam men rehna hai. Agar Pakistan ke logon par taklif aati hai woh Hindustan ke logon par bhi asar andaz hogi. Isi tarah agar Hindustan men koi sailab aye uska asar Kashmir ke logon par parega."

How forceful are these words in which he advocates peace and friendship. He enjoins oneness of outlook so that we consider our sorrows and troubles and their sorrows and troubles as one.

Prosecution's inference totally refuted :

"Aur agar Kashmir men koi sailab ayega to us ka asar donon Hindustan aur Pakistan ke logon par parega. Agar Hindustan taqseem hua magar hamare taluqat jo hain woh bahmi hain. Hamare ikhtalafat khush asloobi se, dosti se, fasad aur jung-o-jadal se

nahin, preshanian phailane se nahin door ho sakte hain. Hamara gharaz-o-ghayat yih hai ki jo hamare hamsaya mulk hain, Hindustan aur Pakistan, woh jitne nazdeek ayen utne ham azad honge. Jitne woh fasadat men muftala hojawen utne ham ghulami men phane jayenge. Aman pasand log chahte hain ki mamla khus-asloobi se hal ho jaye. Ham fitna-o-fasad ke hami nahin hain."

No rioter will talk in this language. It is one who preaches friendship, peace and amity who will deliver this sermon. It does not justify any inference drawn by the prosecution. It refutes that inference.

Your honour might skip over the next 10 lines :

"Aj ham is tamam challenge ko, is tamam ishta'al-angezi ko sabar aur tahammul se bardasht karenge. Ham ne musammim irada kiya hai. Kiyonki ham nahin chahte hain ki fiza bigar jaye. Hum chahte hain ki masla jo 10 sal se Hindustan aur Pakistan ke liye, amuman, aur Kashmir ke logon ke liye khasusan, nasoor bana hua hai woh hal ho jaye".

Vested interests against peaceful solution :

Now prosecution has read this paragraph.

"Magar unko is se dilchaspi nahin kiyonki unki wazarten khatam ho jayengi. Unki hakimi khatam ho jayegi. Yih hamari dilchaspi hai ki yih mamla suljha jawe. Woh yih nahin chahte hain ki Hindustan, Pakistan aur Kashmir ke log azadi ka sans len. Is masle ka asan hal yih hai ki teen bhai ikaththe baith kar is masle ko hal karen".

This is Gandhiji's language. I have quoted it in my statement. 'Let them sort out the differences like brothers'.

"Magar wahan ek ghaddar Banihal top par charhkar kehta hai 'Main ne kiya, main ne kiya'."

When in 1955 Bakshi Ghulam Mohd. said that "Ab qiyamat ke din rai shumari hogi", Pandit Nehru replied that these matters could not be decided unilaterally. "Yih kabhi qabil-e-qabool nahin ho sakta hai". "Ghaddar" cannot be the government. The word may be harsh. But the situation was most distressing—his respected colleagues like Sofi Mohd. Akbar etc. had been treated as cattle and those who led the Indian Army to the highest peaks of Leh, like Ghulam Qadir Butt, ex-M.P., their bones were broken by the police. He might have said this harsh word but it is not treason.

Then he says :

"Talashi ke waqt unki larkian waghaira hoti hain. Woh parda karti hain. Magar police unke darwaze torti hai aur aurton ki behurmati karte hain".

Respect for Pt. Nehru despite ideological differences :

He is talking under that pressure.

"Main ne to pehle hi kaha hai ki hazaron ikhtalafat Pandit Jawahar Lal ke saath hote hue bhi mere jo unke saath qaribi taluqat hain woh mujhe yad hain. Mujhe kabhi nahin bhool jayenge. Is waqt bhi us ke liye mere dil men izzat hai".

You don't have to use this language about a person against whom you want to spread hatred.

What to gain by acting on police advice ?

I am surprised what the State and India have to gain by making their counsel act on the advice of police. If all this is correct, why not show to the world that even today Sheikh Abdullah is expressing highest esteem for India ? But in reference to Kashmir the whole thing is being done on the advice of police which is otherwise interested.

All the vested interests in collaboration with police are reaping a rich harvest as long as the Indo-Pak tension continues. That is the Kashmir CIA line. Even lawyers are briefed by police. These people are interested in showing that Jawaharlalji is being abused in Kashmir.

“Halan ki dukh bahut hai ki agar Pandit Jawahar Lal Nehru jante hain ki inhi tariqon se Kashmir ke logon ko haath men liya ja sakta hai wo unki bhool hai”.

He is reminding him of the ways to win back the people.

Emphasis on restoration of peaceful atmosphere :

Your honour might leave out one page and come to page 190, last five lines.

“Sachai ka izhar is tarah hota hai jis tarah zameen se sabza zaar khilta hai. Hindustan ke jo afsar yahan par hain, jo haqiqi yahan ke law & order ke zimmedar

hain, unko bhi samajh men nahin aata hai ki is jhoot se kiya yih masla hal ho sakta hai? Yih masla pur-aman mahol paida karne se hal ho sakta hai”.

It is a forceful appeal to say ‘ki is jhoot se kiya hal ho sakta hai’. Again emphasis is on restoring peaceful atmosphere.

“Aisi fiza paida ki jawe jis men aman se baat cheet ho sake”.

Now the conspirators would not use that language.

“Aisa rasta nikal jaye jis se har ek razi ho. Magar is men yih log rora atkate hain”.

Vested interests against settlement between India and Pakistan :

He is pleading a peaceful settlement.

“Main janta hoon ki jo yahan par goondagardi karte hain unke sainkron mafadat is men hain. Un ki khawahish yih nahin ki is masla ka hal ho”.

Those who indulge in conspiracies are defaming India. They may be police officers of CIA, those who break the bones of Sheikh Saheb's colleagues and those who commit atrocities in the Interrogation Centres of Government of India. If they, who are responsible for antagonising Kashmiris, are exposed, that is a hard fact. Vested interests have been created. They do not want settlement between India and Pakistan.

What have the Indian officers to gain ?

“Magar main nahin samajhta hoon ki Hindustan ke jo afsar yahan par hain unko kiya faida is se hai .

Kiya unka yih khayal hai ki 10-20 goondon ke bal boote par woh yahan hakumat kar sakte hain ?”

But he does not understand why should Indian officers, non-State subjects, create such conditions in Kashmir, “kiya unka yih khayal hai ki 10-20 goondon ke bal boote par woh yahan hakumat kar sakte hain ?” Do they hope to continue this government on the backing of 10/20 goondas ?

Newspapers of every community in the State have been shouting about this ‘goondagardi’. Mr. Sadiq in his address to the 2nd conference of the Democratic National Conference, publicly complained of the same.

Now this is from one who is now occupying Deputy Prime Minister’s chair. Governments of the State and of India were afraid that he was exposing their tall claims of progress and democracy in Kashmir. Delhi gave the green light at once. And he was silenced with a job. It was a surprise to the public what happened overnight. Be that as it may, Mr. Sadiq has exposed this lawlessness prevalent in Kashmir.

Sadiq gets Deputy Prime Ministership while Sheikh detained for saying same thing :

Sheikh Saheb has used non-legal language, i.e. ‘goondagardi’, to describe those very conditions. It is not creating hatred against the government. It is not a conspiracy with Pakistan. It is not advocating use of criminal force to overthrow the government. For saying the same thing, Sadiq got the Deputy Prime Ministership whereas Sheikh Saheb was clapped into prison.

What a justice ! "Ek pehlu yih bhi hai Kashmir ki tasweer ka".

Then your honour might take page 192.

"Bakhshi Ghulam Mohammed jo kuchh kehta hai woh yahan ke lakhon insan kehte hain. Hindustan ke rehnumaon ko khasoosan Pandit Jawahar Lal Nehru ko yih maloom hona chahiye ki yih Bakhshi Ghulam Mohammed jo kuchh kehta hai woh ghalat kehta hai".

I am told that prosecution did not draw any inference from it.

Criticism on workers' arrest—no treason :

"Awam ki rai yih hai ki yih faisla ham ne nahin kiya hai. Lihaza jab yih baat duniya par waze ho gai to jhoot ki imarat sab khatam ho gai. Lihaza unhen pur-aman mahol men sochna chahiye ki is masla ka hal dhoonden. Unhon ne socha ki Sheikh Abdullah dehaton ka daura karenge, is liye us ke saathi giraftar kar liye jayen ta ki woh kamzor ho. Sawal yih hai ki in hathkandon se yih masla tai ho sakta hai ? Taqriban 150 admi giraftar hue hain. Hamare cheeda cheeda karkun jailon men pare hain, gande kamron men pare hain."

Then Sheikh Saheb refers to the condition of 150 persons who have been arrested and says :

"Rozana unko panch das aane diye jate hain. Unko mushkil se do kambal diye jate hain. Ek ek kamre men woh bhedon ki tarah band pare hue hain".

If the idea is that we are critical about the jail administration and therefore we must be run in for treason, that is the best exposition of democracy in Kashmir. I welcome it.

Never expected this from Gandhi-Nehru's India !

“Mujhe ummid nahin thi ki Gandhiji ke Hindustan men, Pandit Jawahar Lal Nehru ke Hindustan men Kashmir ke logon ke saath yih salook kiya jayega jinhon ne ek baar nahin lakhon baar Gandhiji Zindabad ke naare buland kiye, Pandit Jawahar Lal Nehru Zindabad ke naare buland kiye, jinhon ne Gandhiji ka naam ooncha rakha jabki Hindustan men insaniyat ka khoon kiya jata tha. Hamen ummid nahin thi ki chand goondon ki khatir un lakhon admion ki zindgi Hindustan ke haathon barbad ki jayegi. Yih intehai ek gila hai”.

“This goes against my expectation”, he says. You are not spreading hatred thereby.

Mildest and most appealing words—‘Oh, tell us our crime !’

“Aaj bhi main Pandit Jawahar Lal Nehru se insaniyat ke naam par dakhawast karta hoon ki kiya hamara yahi juram hai ki ham ne us andhere men aapka saath diya ? Kiya Sheikh Abdullah ka yahi juram hai ? Kiya ek Hindu ek Sikh ki jaan bachane ke liye lakhon Musalmanon ne apne seenon par golian khaen ? Yahan ke Hindu Sikh bachchon aurton ki izzat bachai. Kiya aaj uska badla hamen mil raha hai ? Aaj hamare bhai jab ham par mazalim parte hain hans rahe hain. Yahi Sheikh Abdullah 1947 men tha. Main sirf insaniyat ke naam par Hindustan ko

jo Gandhiji ki jai aur usko Bapu ke naam se pukarte hain, main usi Gandhiji ke naam par unhen appeal karta hoon ki akhir in Kashmir ke logon ka kiya qasoor hai ? Main ne apne bayan men kaha ki kiya waade nahin the mere saath jin par ki Hindustan ki fauj yahan aai ? Kashmir ke logon ko apni qismat ka faisla aap karna chahiye, kiya is buniad par hamari imdad Hindustan ne nahin ki ? Aaj Hindustan yih nahin keh raha hai ki agar Kashmir ke log is cheez ka matalba karte hain ki hamen mauqa do ta ki is jhagre ka qatai faisla ho jaye, yih kaun sa gunah hai ?”

I think Sheikh Saheb has never in his life used milder and more appealing words. Your honour might note it.

Sir, the central idea is that he appeals to him in most solicitous terms and you do not make an appeal to a person against whom you want to spread hatred. Then he refers to struggle they have had together in 1947 when the life and honour of women were in danger. This appeal to comradeship and common bond is touching.

Different ideas pending final settlement—no crime :

“Har ek ka haq hai ki jab tak is mulk ka faisla nahin hota, har ek ka haq hai ki woh jo chahe apne dil men soche. Koi yih sochta hai ki Hindustan men jane se faida hai. Koi sochta hai ki Pakistan men jane men faida hai. Koi sochta hai ki azad rehne men faida hai. Yih kaun sa juram hai ?”

In this passage also there is nothing to support the allegation of the prosecution.

Bonafides of our nationalism tested by history :

Your honour might read now page 197 :

“Main aap se kehta hoon ki fitna-o-fasad se koi kam nahin banata. Main chahta hoon ki is masle ka hal ek aisa ho jis se tamam partian razi rahen. Koi bhi hal ho lekin aisa ho jo sab maan len. Is liye ham nahin chahte hain ki fiza kharab ho jaye. Ham zulam-o-sitam ke khilaf zindgi bhar larte aye. Us waqt ham ne qaum parasti ka sabut diya hai jab karoron Hindu-Musalman pagal hue the. Us waqt ham ne jaan jokhon men dalkar is baat ka sabut diya hai ki Janab Mohammedur Rasool Allah par bharosa rakhne walon ka iman kiya hai. Musalman se koi yih tawaqa nahin rakh sakta ki Hindu, Musalman aur Sikhon ke darmian ittehad kharab ho jaye. Ham sirf is masle ka pur-aman hal chahte hain”.

No incitement to people even though 21st February incident has taken place. No thought of disturbing the government or creating hatred.

“Is ke khilaf chand goonde Assembly men baithkar chhurian unko dekar mohallon mohallon men jakar sharif admion ko daraen, dhamkaen aur phir unke samne apni gardan jhukaen. Yih iman nahin hai. Aur jo yahan par Hindustan ka police hai woh khare rehte hain”.

He expects the Indian police to protect them, not to go away.

Wants Indian Police to protect the people :

“Yih theek hai woh haath nahin uthate hain. Main ne suna hai ki C.R.P. haath nahin uthati hai lekin un goondon ke samne khare rehte hain”.

He wants the Indian police to act not to stand as bystanders and watch the fun, but act and stop the lawlessness.

“Yih un goondon ke liye kafi hausla afzai hai kiyonki woh sochte hain ki agar koi unka muqabla karega to C.R.P. unke peechhe hai. Hindustan ke sipahion ka yih role theek nahin hai. Hindustan ke sipahion ko Gandhiji ki izzat bhoolna nahin chahiye”.

They must stop the wrong-doers.

“Agar hamare admi kisi par haath pair uthaen, beshak woh us ka haath pakar len”.

He asks the C.R.P. to stop his followers also if they are committing lawlessness,

“Lekin agar log dukanon par baithe hain, gharon men baithe hain aur chand goonde un par hamla awar hote hain, yih Hindustan ke sipahion ka farz hai ki unko qabu karen”.

People had complained that girls were being molested on roadsides and CRP did not interfere.

I submit to the luminaries of law who have come from India, kindly understand from all this. We are much

misrepresented people, misrepresented by vested interests.

Lawlessness if not arrested, blot to India :

“Agar woh aise nahin karte hain to woh Hindustan ke naam par ek zabardast daagh hain”.

Sheikh Saheb says that all this sad state of affairs will mar the good feelings about India in Kashmir. If the Indian officers responsible for law and order and Indian soldiers responsible for peace, do not arrest this lawlessness, this will be a blot to India.

“Bahar hal apne aap ko bachana aur apni izzat-o-aabroo ko bachana aap ka farz hai. Aur agar kisi goonde, koi goondon ki toli kisi sharif admi par hamla karti hai to us mohalla ke tamam admion ko khara hona chahiye aur us insan ko un goondon se bachana chahiye. Is liye aap sabar se, aman se, hausla se tamam war bardasht karen. Kamyabi us ke liye hai jo sabar se jhoot ka war bardasht karte hain. Khuda tala usko kamyab karta hai. Allah tala hamen bhi kamyabi ata kare”.

That is like Vinobaji. Whether people listen or not. If C.R.P. does not protect them, then if a respectable person is assaulted, then Mohallawalas should join and save him. Vinobaji goes on preaching this. That does not create hatred. What can be a more stirring and moving appeal for firmness, patience and peace? He says, God alone, gives you success.

I have finished with this speech, Sir. I am sorry that I had to detain you after Court hours. I had to tell you what happened before and on 21st February. In spite of gravest provocations the speaker was calm on 28th of February and delivered a sermon on peace and patience. I hope you will keep all this before you.

—X—

CHAPTER V
Defence Arguments
(22nd May 1961)

By

MIRZA MOHAMMED AFZAL BEG

On

Sheikh Mohammed Abdullah's Speeches :

ExP. 269 /G/1

Dated 2nd March 1958

ExP. 269 /C/1

Dated 7th February 1958

CHAPTER V

(A)

ExP. 269/G/1, Speech dated 2nd March 1958 :

Your honour, I have dealt the other day with the speech allegedly delivered by Sheikh Saheb on 28th of February 1958. I am taking up another speech of 2nd March 1958 delivered at Karala Khud in Srinagar. This is ExP. 269/G/1.

Mixed gathering—no dual standards :

Sir, this is a speech addressed to a mixed gathering of Hindus and Muslims, as the reporter's note says. In order to test the prosecution view whether Sheikh Saheb had a different message for that day—so the prosecution insinuated—let us look at the contents. The contents will reveal that basically he has no different message. He has the same thing to tell this audience here, as he told the exclusive Muslim gatherings. There are no double-standards and no double-talk. The slogans may kindly be noted at the beginning : "Nara-e-Takbir Allah-o-Akbar. Yih mulk hamara hai, is ka faisla ham karenge".

This is on record and these are the identical slogans raised elsewhere. We do not feel shy of raising that slogan because therein is the greatness of God. It is through recalling the name of Almighty that the speaker enjoins upon the gathering tolerance, brotherhood, peace and love.

Deep laid conspiracy :

Then, Sir, he has referred to, as he did earlier, "Paanch ya das minton men main apna maqsad aapke samne rakhunga. Ap ko maloom hai ki 1953 se barabar hamare khilaf sazish ki ja rahi hai ta ki Kashmir ke log musibat men muhtala ho jayen". That is to show that the coup of 9th August 1953 was the result of the deep laid conspiracy against the people of Kashmir and against their right of self-determination. "1953 men jo sazish ki gai, yahan ke nizam-e-hakumat ko ulat diya gaya". That is our offence that we were the victims of the conspiracy. The government established by law was overthrown. "Main is bare me koi lambi chauri taqir nahin karna chahta hoon".

It points out "Koi duniya ka aaeen, koi duniya ka akhlaq, koi duniya ka qanoon in baton ki ijazat nahin deta hai". The whole action was illegal, unconstitutional; and no law, moral or otherwise, can sanction that. Our contention is that we are the victims of that lawless and bloody drama, "jo 1953 men hueen".

Instead of disturbing peace, speaker warns against agent-provocateurs :

Sir, this is important : "Aj yih koshish ki ja rahi hai sarkari agenton ke zariya se ki is mulk ka aman kharab ho jaye". He warns people that through agent-provocateurs peace of the country is being disturbed. Now, the allegation is that the speaker was disturbing the peace. He would be the last person, if interested in disturbance of peace, to preach down to his audience "sarkari agenton ke zariya se ki is mulk ka aman kharab ho jaye".

“Woh log, woh jawan jo hamare jalooson men, hamare ijjatmaon men shor machate hain, beja hangama karte hain, un par nazar rakhni chahiye. Ya woh bewaqoof hain, woh nahin dekh sakte ki uska nuqsan ho raha hai, ya woh tumhare dushman hain jo yih nahin chahte hain ki haq ki awaz duniya tak pahunchhe.”

Our complaint has been that Kashmir was put behind the iron curtain and the world was not allowed to know and even the Indian public was not allowed to know the real state of affairs prevailing in Kashmir.

Note—no reference to govt. or individual :

Our desire has been to take the masses into confidence and tell them the truth. He makes that complaint publicly that these people are either ignorant and do not see the damage they are doing or they are our enemies. Please note there is no reference to the government or to any particular individual. It will be preposterous to say that these sentences could mean an attempt to overthrow the government. There is no reference to any individual and therefore, no conclusion, will be warranted, such as the prosecution have tried to make out.

Scrutiny in light of law, not sentiments :

“Ap ko ilm hai ki 1953 men ek hi raat men kis tarah yahan dagha, makar aur fareb se kis tarah yahan ki hakumat badli”.

Now, this is a passage read by the prosecution ; they have drawn your attention to this passage. Kindly scru-

tinise it in the light of law and not as somebody's delicate sentiments would desire.

Law gives us the right of ruthless criticism, as long as we do not incite violence, as long as we do not take to arms. In the light of the judgments cited earlier, we have absolute right of free criticism, and your honour has to judge me in that light.

I might give offence to an individual. It is for the individual to complain and not for a political party to take the cover of the State and start a case of treason. I shall come to this passage more fully later. It is not for the individual to take cover of "high treason" for a purely private offence. If I have defamed anybody let him come forward and I shall prove the truth. Law should not be used to wreak personal vengeance.

Three days earlier Bakshi Saheb had said that loyalty to Sheikh Saheb is the 6th article of his faith. In the cabinet there was complete unanimity expressed. (I shall later come to the remark of the distinguished counsel that there was a rift. That is not correct). I have made that clear in my oral statement U/s 342. "Makar aur fareb se kis tarah yahan ki hakumat badli".

"Makar aur Fareb" explained :

"Makar aur fareb", as I have already explained, refer to the baseless allegations that Sheikh Saheb was accused of American conspiracy, from which they subsequently resiled. It was worst type of fraud, character-assassination and mud-flinging at his back. They did not allow him to appear before the Constituent Assembly to

reply these charges. After he was locked up in jail, preposterous allegation is made against him that he was about to convert Kashmir into second Korea. This is repeatedly expressed in these speeches. Now, all these wild allegations were "makar va fareb".

I shall show that the stand of the "conspirators" against us was shifting. That establishes the assertion of "makar va fareb" all the more. It is deceit if you mislead public opinion for getting this or that reward. I am completely within legitimate democratic right to point out that. "Kis tarah yahan dagha, makar aur fareb se kis tarah yahan hakumat badli". This fraud was played on Government of India too. He might have this in mind. Your honour might draw the proper inferences.

"Ghaddar" means one who betrays—here betrayal of constitutional right :

"Aur chand ghaddar kursion par baith gaye". As I have said 'Ghaddar' means faithless, those who betray. Let not the prosecution be frightened by the high-sounding Persian word, as they are by the word "Razakar". Faithless is one who betrays.

Now, a gentleman has a right to say that if you betray the people, deny them the right of self-determination, dismiss the Prime Minister by ways other than constitutional and other than democratic, you betray the people and the Constitution. It is betrayal of Constitution and one is absolutely at liberty to say: "Ki yih aaeen ke sath ghaddari thi, awam ke sath ghaddari thi, unke haq ke sath ghaddari thi". Kindly take this word in that sense. It is a betrayal of constitutional right.

Who does not know that ? I shall make out later that the established constitutional convention and law dictates that Sheikh Saheb should have been asked to face the vote of no-confidence properly and be replaced according to democratic principles.

Betrayal—departure from democracy, law, Constitution :

Now, they betrayed and subverted the Constitution. That betrayal may appropriately be termed as “aaeen ke sath ghaddari thi.”

“Jab tak yih duniya qaim hai jo ghaddari unhon ne watan ke sath ki koi insan us ghaddari ko muaf nahin karega”.

It will go deep into the history. History of constitutional law will record it and has recorded it ; the world will record it and has recorded it, that it is unforgettable and unforgivable subversion of Constitution. Others, unconnected with us as I shall show in due time, have recorded this matter of Sheikh Saheb's removal as a departure from democracy, law and Constitution. That is ‘muaf na karna’. World will “not forgive and forget it”. That does not convey that they will take up arms against those who betrayed Constitution. No inference of that type will be justified. They will not forgive in the same sense that they will not allow repetition of it. As a lover and follower of democratic methods, the speaker will do the same—not allow its repetition.

All communities victims of fraud :

“Sawal yih hai ki 1953 men yahan ke Hindu doston, Musalman doston aur Sikh doston ko kaha gaya ki

Sheikh Abdullah ne America ke sath sazish ki, ki woh is mulk ko Korea banata"

He says that this fraud was committed on Hindus, Muslims and Sikhs alike. No discrimination. He does not say that Muslims alone were roused against him. All the communities became the victims of the fraud. "America ke sath sazish ki ki woh is mulk ko Korea banata".

Reply to publicly made charge—democratic right :

This was said publicly and he is answering that charge. It will be absolute denial of democratic right if you do not allow this. He had been denied to appear before the Constituent Assembly, he was kept in the lock up for 4½ years. After his release he goes to the people and places the charges against him before them. Should we deny him even this? That would be the worst example of condemning a person unheard. National Conference published a pamphlet which I may place before your honour in due course. It alleged that Kashmir was about to be converted into Korea, that war was being invited here and all that.

Appeal to fundamental rights in Union Constitution :

"Lihaza yih mulk bachane ke liye main age aya. 4½ sal main khamosh raha phir un logon ko jo duniya ko ikhlaq ka sabaq dete hain, main ne unko kaha ki ek qatil ko bhi bachne ke liye ek mauqa diya jata hai."

This is an appeal to your high judicial principles, this is an appeal to the fundamental rights enshrined in the Union Constitution. A person who would hatch and execute a conspiracy will not talk of the constitutional

rights in that tone. He distinguished it from the practice in totalitarian countries.

“Sheikh Abdullah ko jise 27 sal mulk ki khidmat karte hue agar us ke khilaf ilzam hai to mauqa dijiye taki woh adalat men safai pesh kare aur jo us se saza ho main woh qabool karoonga.”

If found guilty, ready to apologise before crores :

There is nothing of treason, nothing of riot, nothing of lawlessness in these utterances.

“Yahi nahin Kashmir ke chalees lakh mard, aurten aur Hindustan ke 35 karor admiyon se main muafi mangoonga.”

Now, nobody can talk with a greater depth of conviction than he does about his peaceful intention. He is ready to go and apologise before crores of Indians—Hindus, Muslims and Sikhs; and men, women and children of Kashmir if he has been guilty of betrayal and of letting down the people. But it was not tolerated that the people should know the truth.

About this time the stage was set for his rearrest. “Magar 4½ sal guzre magar unhen himmat aur jurrat nahin ki woh sazish sabit kar saken”.

Makes joint appeal, not communal :

Then please leave out about 4 lines :

“Yahan ke Hinduon, Musalmanon aur Sikhon ko mujh par etmad hai. Bahasiyat Prime Minister ke aapki khidmat ki hai. Agar us waqt jabki aapke khazane mere hawale the agar main ne us men se apne khandan ko, apne aapko, apne aziz-o-aqarib ko ya jab main kursi par baitha tha, kiya main ne koi beinsafi

ki, Hindu, Musalman ya Sikh ke sath ki hai ? Beshak agar woh ilzam hai pesh karo. Jo mere sath giraftar kiye gaye agar unke khilaf koi ilzam hai pesh karo."

He is pointing out that he treated them without discrimination. Now, to say that to people is the most constitutional right which he is exercising. I repudiate the prosecution inference that he was bypassing the Constitution or he was, even by inference, preaching communalism or making a communal approach to the voters. He makes a joint appeal to them, not a communal appeal. It will be height of injustice to infer he was making a communal approach.

No crime committed :

Then he says about his administration as Prime Minister : "Did I discriminate ever or is there any injustice of which I can be accused ? Please come forward and say that". "Taki duniya ko maloom ho jaye ki koi buniadi haqiqat is jurm men hai". He says come forward so that the world may know if there is some basis in the accusation brought against him. "Magar jurm koi nahin tha. Yih ek sazish thi." There was no crime that he had committed.

Read the word "bartering away" in proper context :

"Unhon ne Kashmir ki azadi ke sath sauda kiya." Now, then, he says they bartered away the freedom of Kashmir. A political worker of his stature is absolutely free to tell the people that their right was bartered away because India herself said that the correct and the right way to decide the accession issue is through plabiscite.

But our adversaries raised a different slogan, chose a different path and sought the vote of the Assembly at the leader's back ! It was obviously bartering away the freedom of the people who had been guaranteed a free vote in plebiscite. Now, the prosecution have picked up, culled out that passage. "Assembly bulai gai, member namzad kiye gaye". Why not read that in this context. They wanted to show that in the name of Sheikh Saheb vote for Assembly members was secured. The man in whose name they got the vote and in whose name members were elected, was illegally dismissed, removed, detained and not allowed to appear before them to explain. Yet Assembly members were bundled into the House in a way which I have described in my written statement¹. Their consent was wrenched out of them at the point of bayonet. If it is not bartering away freedom then what else is it ?

"Apne ghar bharne ke liye, kursi hasil karne ke liye, Kashmirion ki izzat-o-aabroo ke sath khela". That is what you will find repeated in the record of the case before your honour.

Prosecution's preposterous inference from "Truth will ultimately prevail" :

- This is what prosecution have quoted :

"Tamam duniya ke saath khela. Magar Musalman ka aqeeda yih hai ki [sachai chhup nahin sakti hai. Akhir men sachai ki fateh hoti hai." They want to draw the inference from "Sachai ki fateh hoti hai" that "victory will be with us and government will come to an end".

1. Kashmir Conspiracy Case, Report (First Edition) 7(II).

Sir, I beg of you to concentrate on this. I would have hesitated to comment on this because the inference is preposterous.

Now, "Truth shall prevail" is a motto hung over the Parliament building in New Delhi, over the Prime Minister's office and in Rashtrapati Bhawan. Day in and day out Gandhiji used to preach "Truth shall prevail finally." Most unwarranted inference has been drawn by prosecution just to malign us.

On the one hand I challenge the inference drawn by the prosecution and on the other I emphasise the peaceful methods that Sheikh Saheb has advocated. He has openly put his case before public and he says that what they charge him of is a lie and untruth. He makes the appeal to all communities.

Every word reflects peaceful methods :

Now, your honour may leave out two lines. The speaker wants to argue with them. "Daleel" is an important word. He does not want to come to blows. Every word here will tell your honour that peaceful methods are intended and used. "Daleel pesh karen" which means "give reasons, discuss and argue." Certainly the world press was very critical. Now, "lanatva malammat" means "criticism and comment." I dare say that the world was very very critical of his dismissal and detention. "Woh mujhe rha karne men majboor hue." Again his grief is that "yahan ka aman kharab ho aye."

**Presence of Indian Intelligence officers in court—
frightens witnesses :**

Here is Sardar Lachhman Singh of Government of India Intelligence Bureau in the Court room, who has played a very atrocious part in inflicting atrocities on the four accused persons who have tendered applications before your honour. Sardar and other Intelligence people have been brought from the centre at Delhi. If the witnesses see these people in the Court, how dare they tell you the truth ?

“Police aur fauj mangwai gai. Khair ek sazish ki gai aur kal doosri baat in sazishon men yih koshish ki gai, ki ja rahi hai ki ham sab azadi talab karne wale insan giraftar kar diye jayen.”

It is a fair comment of the accused and if your honour wants I shall produce independent authorities about that fact. Indian Police is there, it is not denied. One foreign commentator wrote they were about to take over the Lloyds Bank on 9th August 1953. But the manager told them that they should clear out.

“Jab unki pehli baat duniya men na chali to kehne lage ki Sheikh Abdullah firqa parast hai”.

Sheikh explains second charge—no individual referred to :

This was the second charge against the Sheikh. Now, that you have nominally set him at liberty, should he not tell the people what charges were brought at his back and should he not inform the people about his version

of the matter? Second charge was that "I am 'firqa parast'." "Main ne kaha ki kaun si firqa parasti main ne ki?" This is one of the perverted notions of secularism. (It is expressed in a figure of speech). "Woh firqa parast is liye hai kyon ki woh Quran Majeed parhta hai, namaz parhta hai".

No reference to any individual in that. Certainly by facts also it will not apply to the individual whom the prosecution have in mind.

Lawlessness of "little dictators and Czars."

"Jo bachcha naghma dekhe, sharab piye, badmashi kare, chori kare, woh bara leader hai",

Speaker might be referring to the National Conference and Peace Brigade who have become little dictators and Czars. Which of us does not complain privately about the lawlessness of these little Czars? It does not apply to the government nor does it apply to a particular individual. He is just explaining his case and certainly he is, by innuendo, disapproving of the lawless activities. A person interested in lawlessness will not say that.

All religions make man human.

Now comes the most important passage :

"Main beshak Khudatala se kehta hoon ki mujhe taufeeq sachche Musalman banane ko de, tamam Hinduon ko taufeeq sachche Hindu banane ko de. Main chahta hun ki ek Hindu sachcha Hindu bane, Gita ke path par amal kare. Isi tarah ek Sikh sahi taur par Guru Nanak ki taleem par amal kare. Mazhab insan ko insan banata hai."

Kindly concentrate on this. Can we attribute communalism to the preacher who begs of Hindus to be true followers of Lord Krishna and to act on Bhagvat Gita? He begs of Sikhs to be the true followers of Guruji. He beseeches everyone, whether he is Mr. Saraf or Lachhman Singh—to both of them he tells follow your Gita and Guru. Two inferences are inescapable. (1) That he preaches communal harmony; (2) He enjoins the followers of every religion to follow their Guru, to follow his teachings; the sum total of both being that “mazhab insan ko insan banata hai.” It makes the man human. Therefore, his insistence on religion. All religions, whether it is Hinduism, Sikhism or Islam, make man human and human qualities exclude thought of violence.

Slogan—peace, love, brotherhood:

Human qualities enjoin peace, love and brotherhood. This is his slogan and all accusations and allegations of the prosecution are repudiated by it. It is not behind the doors that he says so. In Hazratbal he has told the same, in the Jama Masjid the same message and the same message in Karala Khud and to lakhs of people.

May I ask what is the true significance of secularism? Is it not the true significance of secularism to allow followers of all religions to follow their leader and Guru? This is what Gandhi preached. He would read Quran, Gita and Garanth in his prayer meetings to bring all communities together. May I make a humble submission that if you really believe in harmony amongst the various communities, this is the most effective way.

Shrikh Saheb then refers to his colleagues like Sofi Mohd. Akbar, G. M. Butt, Zaildar Saheb, Beg and others who have been arrested and he says how unfortunate it is that these people are now dubbed as 'dakoos'.

Not even defamation and they call it treason !

There is an important word on which I want to lay emphasis. "Yahan par koi sharif nahin, sirf Bakhshi khandan sharif hai." (I am sorry why the gentleman for prosecution missed this passage). Not that "Bakhshi khandan" is not "sharif", but he asks "is he the only one? There are others. This is no defamation or sacrilege. Are they alone noble and 'sharif'? In the case of others he has not used 'sirf'. "Itna hi nahin Qadir Nata sharif hai Shaba Gada waghaira sharif aadmi hain." In this case he does not say that "sirf Qadir Nata sharif hai, Shaba Gada waghaira sharif aadmi hain." It is astounding that comments on Qadir Nata, Shahab Gada, Maqbool—whoever they be—should be termed as 'treason'.

If they are defamed, let them sue Sheikh Saheb and we shall show that what he said was justified.

Individuals are not the State :

Those people who pose as public men, it is a public duty to expose them.

Should these people be allowed to take the cover of high treason, which is an offence against the State? They are not the State.

Affected individuals don't object, instead Govt. does:

Legally, perhaps this view of mine will carry greater weight with your honour—they have not objected to this comment. It is a public speech, delivered, presumably, at their doorsteps where these fellows live. They have not objected, they have accepted this comment. But Government of Jammu & Kashmir and Government of India must take notice of it and the learned counsel must argue it here. They do not sue Sheikh Saheb for defamation.

It is a public duty to speak about the public character of those people who pose to be public men. Any way, they are individuals. It has nothing to do with the charge u/s 121-A.

No incitement but fair criticism :

Now, Sir, I am instructed that from this two inferences have been drawn by the prosecution : That this is a clear incitement. It is an incitement ? This is not an incitement at all. Things were happening in Srinagar. Sheikh Saheb has referred to papers etc. It is a fair criticism especially when the individuals concerned have not objected.

Who are these great pillars of the government, I do not know ? Your honour cannot take any judicial notice as to who are they—Qadir Nata, Shahab Gada, etc. To say that it is incitement is not correct.

“Jo Kashmirion ki izzat-o-aabroo par daka dalna chahte hain. Un ke hathon kisi ek ki izzat mehfooz nahin. Main ne jail men kahanian suni hain ki exhibition, hotlon aur cinema gharon men kis tarah Hindu-Musalman behnon ke sath salook kiya ja raha hai”.

Now, Sir, kindly see this. As a public man he bemoans the humiliations inflicted on his Hindu and Muslim sisters. Can such a man be accused of communalism? Papers were writing columns and columns.

Supports Kashmiri Pandit's complaints :

Kindly mark that passage :

"Yih khabren main ne Hindu akhbaron men parhin. Muslim akhbar nahin bheje jate the".

That is another great feather in their cap.

"Chunanche 'Martand' din raat rota tha ki kisi bhai ki izzat mehfooz nahin".

Now he is referring to the activities of Kashmiri Pandit community. What else should a public man do, may I ask? Should he be a sawer of wood, washer of clothes, what should he be? He must expose that element in the society which jeopardizes the honour and dignity of ladies, especially when the ladies belong to minority community.

A Muslim leader of his stature is honour-bound to carry on a ruthless campaign against those individuals who indulge in disgraceful activities. For this should the government prosecute the gentleman for high treason?

He says he has got 'Martand' paper before him which is shrieking day in and day out that honour of their ladies is not safe.

Adversaries do not want law and order :

"Ki kisi bhai ki izzat mehfooz nahin, magar asliyat yih hai ki aaj woh is mulk men aman nahin chahte hain".

He says his adversaries do not want law and order here. "Kiyon ki jab aman qaim ho jaye to unke theke qaim nahin rahenge".

This is an open secret now.

Face goondaism jointly :

"Sharab qaim nahin rahegi. Jeep motor caren qaim nahin rahengi. kursian qaim nahin rahengi. Yih kursian tab tak hain jab tak mulk men bad-amni hai. Main yahan ke Hinduon aur Musalmanon se appeal karta hoon ki agar unko apni izzat, apne ayal ki izzat-o-aabroo se mohabbat hai, unhen mushtarka taur is goonda gardi ka muqabila karna chahiye.

This is an appeal to Hindus and Muslims alike that if a Hindu or a Muslim does mischief, then they should oppose him jointly. If Hindu is a wrong-doer, do not make it a communal question, and when Muslim is a wrong-doer, do not give it a communal colour. Far from preaching communal hatred he is strongly, emphatically and vehemently asking Hindus and Muslims to combine and make a united front against lawlessness.

Far from encouraging lawlessness and inciting lawlessness, he is making a fervent appeal to curb lawlessness. He is preaching purely peaceful methods. All inferences sought to be drawn by the prosecution fall to the ground.

I am a friend—not a foe :

They have themselves appealed to you to take an over-all picture. In that picture kindly take note of this passage.

"Sheikh Mohammed Abdullah aap ke samne hai. 1931 se aap us ko jante hain. Yahan ke Hinduon ko kaha

gaya ki Sheikh Mohammed Abdullah aap ka dushman hai."

Now, he is appealing to them that he has been misrepresented as their enemy. What will be the significance of saying "I am a friend and not a foe"?

"Woh is mulk ka sultan banana chahta hai. Magar yad rakho jab aapki izzat-o-aabroo par bara khatra pahuncha tab yahi Sheikh Abdullah tha jis ne tamam qaum ko khara kiya aur kaha ki goli khao magar unki ; izzat-o-aabroo ko bachao."

Honour of Hindus (minorities) my honour :

That is a hard fact of history and it needs no comment.

"Is ko ek arsa hua. 10 saal guzre. 1947 ko yad rakho. Sheikh Abdullah wohi hai. Agar Sheikh Abdullah ne us waqt woh kirdar dikhaya". I continue to be the same. "Agar Sheikh Abdullah ne us waqt woh kirdar dikhaya, us ne aap ko koi minnat nahin rakhi. Main janta hoon ki Kashmir ke har ek insan ki izzat meri izzat hai".

Their honour is as dear to him as his own. This is his faith.

"Aur agar us ki izzat khatre men parti hai, pehle meri gardan wahan giregi peir us ki izzat".

What more pledge, what more guarantee should there be that "you can raise your hand against the honour of a Hindu over my dead body".

Slogan of peace and communal harmony—a creed, not political expediency :

I have said in my written statement that this slogan of communal harmony is not a political expediency with us. It is a matter of creed which has gone deep into our blood since 1931 and with these traditions I laid the foundation of the Plebiscite Front.

This creed of peace and communal harmony, I have called 'our beacon-light'. I am proud of it, my organisation is proud of it. And to the last breath we shall stand by this ideal.

Then three lines thereafter your honour may mark :

"Agar phir kabhi chance ata hai, main dobara ap ki izzat-o-aabroo apne khoon se mehfooz rakhoonga".

Sir, there is repeated insistence on that pledge in addition to the historical proof.

Prosecutors will be put to shame :

"Main sirf yih dawa nahin karta hoon. Aap ne 1947 men mujhe wazir-e-azam banaya. Main unko challenge karta hoon ki jo aap ko gumrah karte hain woh aisi baat pesh karen jahan main ne koi bad-diyanaati ki ho, jo ohda aap ne mujhe bakhsa, us ka main ne ghalat istemal kiya, Hindu, Musalman aur Sikh ko alag alag nazar se dekha. Agar un men himmat hai woh pesh karen. Woh insan dawa kar sakte hain jo choron ki duniya men rehte hain. Jo log karoron men phanse hain".

What more forceful challenge can be conceived than the public assertion that he has all along acted most

scrupulously with honesty and non-communal outlook, without any discrimination? Now, this absolutely excludes any thought of communal discrimination and contradicts the allegation of excitement to violence. There is absolutely no reference to the government.

Not only does it refute the charges but it establishes the defence that the charge is merely malicious and nothing short of character assassination. If there were fair justice, those who have prosecuted us will be put to shame.

Awakening public, the watch-dog, to be watchful—no crime !

Now, Sir,

“Jo karoron ki jaylad ke malik hain. Das saal pehle unko jebon men 8 aane bhi nahin the. Woh agar lakhon ke malik ban, jeepon, motron, lorriyon ke malik bane. Akhir yih sara kahan se aya” ?

I do not know whom the shoe pinches. If people have made mints of money, why fear the public criticism about that? There is a new class developing in Kashmir of those who were going about with beggar's bowl 13/14 years ago. Every one is astounded where the money has come from.

We do not say they have committed robbery but people are surprised and want to know about the sources.

Your honour, this Government has a standing rule to check periodically additions to government servants' properties. That does not mean they are thieves. It

is law of the land. The idea is to see if they live within their means and how they acquire property. It is one of the duties of the government to see who has earned money and wealth by miracles. And this age is notorious for the absence of miracles. It is their bounden duty to find how the money has amassed in certain quarters.

By saying this Sheikh Saheb did not commit any offence. Again, this is not treason to draw the attention of the people and to educate public opinion. Public opinion is the only watch-dog to secure and safeguard the economic, political and democratic rights of the people. Now, if Sheikh Saheb is shaking up the watch-dog to come to watchfulness, surely that is no crime? Free criticism is a blessing of democracy but this is how in various ways they have killed this democracy.

Vested interests joined the conspiracy :

I have pointed out in my written statement that vested interests were amongst the elements who joined in the conspiracy to overthrow Sheikh Saheb's government established by law. Such elements are angry with us. Here are these vested interests. There is no reference to Bakshi Ghulam Mohammed. We have never said that he has amassed wealth. I said that these vested interests are amongst the elements who joined the conspiracy against us. Your honour is getting a clearer picture of that conspiracy.

It is a misfortune that in these days of democracy people with this ill-gotten money should, under the cover of treason, be allowed to persecute those who expose them.

Wanted purification of administration and economic public life :

We wanted purification of administration and in regard to economic public life. Here is the result we have got.

“Aakhir yih sara kahan se aya ? Yih tumhara khoon hai, hamara khoon hai. Jis se yih haath rangte hain. Yeh jante hain ki agar masla ka hal hua, yih khichri hamare haath men nahin rahegi.” That is his view. “Woh chahte hain ki is mulk ka aman barbad ho jaye”.

Again he comes to that subject which hangs heavy on his mind. No preacher who preaches that gospel can be accused of exciting the people to hatred or violence.

Cannot sovereign body change its laws ?

Your honour may skip over the next 10 lines :

“Sawal yih hai ki kis ke kehne par main ne yih faisla kiya hai ?”

That is, I think, a hard fact. This passage has been read out by the prosecution. A public man has a right to say that the “irrevocable” decision “koi ma’ane nahin rakhta hai”. May I ask, cannot the Parliament of India change that law ? Cannot Kashmir Assembly change that law ? I do not know if this utterance is reference to Bakshi Saheb’s statement. “Banihal top se kehna ki koi taqat is faisle ko badal nahin sakti hai, yih koi ma’ane nahin rakhta”. I pose a simple question. Cannot the sovereign body of India change this law ? Why talk in these categorical terms ?

Clear reference to communal goondas—not to Bakshi or Government :

“Woh goonde hamari izzat-o-aabroo par hamla karte hain. Woh jo shor karte hain aaj Sheikh Abdullah firqa parast hai. Lekin woh jinhon ne lakhon admion ka qatal kiya woh bare qaum parast hain. Qaum parasati ka sabaq mujhe de rahe hain.”

He is referring to certain communal elements who have inflicted death on lakhs. They call him “firqa parast”.

“Jinhon ne apne haathon lakhon bandgan-e-Khuda ka qatal kiya woh qaum parast nahin ho sakte hain”.

I repudiate that this refers to Bakshi Saheb or his government. Such a conclusion is most unwarranted. Further, it is most unfortunate to read in this statement any incitement to violence. The very sentiments that he is expressing repudiate any thought of violence or communalism. The whole emphasis is on that he is not a communalist. The whole tone of the speech is contrary to creating excitement or hatred.

It is their own mind and not the speaker's words that makes them draw certain conclusions. He does not say that Hindus or Muslims were responsible for the fratricide of 1947. He did not accuse one or the other. You cannot, therefore, call it communal approach. Then :

“Lekin Sheikh Abdullah kiya mutalba karta hai? Bahai-siyat Prime Minister main ne intehai koshish ki ki jab Hindustan aur Pakistan bana, lakhon Hinduon, Musal-

manon aur Sikhon ka qatal-e-aam hua. Main ne us waqt koshish kee ki mera watan is se azad rahe."

He is not referring to a particular community committing atrocities on the other community. He is referring to a general fact of history.

Sir, neither any communal inference of creating hatred in one community against the other, nor any incitement to violence can justifiably be read in this. Such inference is not justifiable. The emphasis is on the fact of branding him a communalist by those whose deeds are such. The central idea is that he cannot be branded a communalist.

Ignoring hard facts is living in "fools' paradise" :

"Kashmir hamara hai. Ham ne faisla kiya hai koi taqat is ko badal nahin sakti hai. Main kehta hoon jo in ahmaqon ki duniya men rehne wale admion ne faisla kiya hai woh ghalat hai."

"Ahmaqon ki duniya" Again, it is an idiom. "Fools' paradise" is a paradise which does not exist. The expression means an Utopia which has no reality. Nobody should think that any individual is being branded as 'ahmaq'. Hard fact is that our State is divided and hard fact is that there are United Nations Observers in the State. Those who do not take note of these realities are living in fools' paradise. They might be very intelligent people but for a while they are also carried away. It is not derogatory.

"Kashmir ke logon ne apni qismat ka khud faisla karna hai. Doosri koi shakhsyat yih faisla nahin kar sakti hai."

In due time I shall place before your honour that Prime Minister of India said that even Parliament cannot take the final decision about Kashmir. Not that Parliament is incompetent, but that it will be against the declared policy etc. Sheikh Saheb is very true in saying it.

Urgencies of permanent peaceful settlement:

“Sawal yih hai ki yahan ke Hindu, Sikh, Musalman aur Isai yih yad rakhen ki jab tak Kashmir ka masla lataкта hai tab tak kisi ki izzat, aabroo aur jan-o-mal mehfooz nahin.”

Two armies are there standing face to face and we in Kashmir are within the target range, unlike those who are running this prosecution and whose skins are safe. A mere clash might flare up into a big Conflagration.

In the circumstances a public man must insist on the urgency of permanent peaceful settlement.

Certainly, as long as controversy continues, does anybody deny that ‘hamari izzat mehfooz nahin’? What happened to children and women during those days of crisis? Even now conditions are not secure.

Can not ignore potentiality of danger :

It is a different matter if some of us are making hay while the sun shines but a conscientious public man will not ignore the potentialities of the danger in the Kashmir situation. It is his national duty to urge an early settlement. If he does not do that, he fails his duty and if he does it these days, he is run in for treason !

It is unfortunate that prosecution missed to read this passage which I placed before you. Now, kindly read the whole page. I seek your honour's indulgence. Prosecution have pleaded that an overall picture should be taken. They have not shown you even the partial picture.

I, as an accused, will not be satisfied if I do not place the whole picture before your honour.

“Main chahta hoon ki is mulk ka faisla ho jaye”.

I recall the disastrous days of 1947. All conscientious people amongst us, and particularly public men like Sheikh Saheb, are alive to these dangers. They may recur at any time. In the process Kashmir will be annihilated.

Forceful presentation of permanent solution—a duty :

In the circumstances, the only duty which we owe to the people is to press the Government of India with all force (peaceful force and force of logic) that permanent peace in the State can be ensured by peaceful settlement and settlement based on the will of the people. It will quieten everybody. Hence our insistence on that.

Insistence on settlement acceptable to all—no offence :

“Faisla is tarah ho ki ham teen bhai ikaththe baith kar is ka hal dhoonden. Yih kehna ki sirf hamara faisla theek hai, yih sab ghalat hai. Faisla aisa hona chahiye

jo har ek ke liye qabil-e-qabool ho ta ki ham aman-o-amaan ki zindgi basar kar saken. Yih kaun sa juram hai ?”

An individual interested in rioting or in lawlessness and chaos will not use that language. “Yih kaun sa jurm hai ?” It is not an offence to insist on permanent settlement and amity and friendship between India and Pakistan so that this cause of friction is removed.

Sir, during the history of past 30 years we have faced many crisis. If proper action had been taken at appropriate time, much loss and tribulation would have been averted. The slaughter of Muslims in Jammu might have been averted or its magnitude reduced by appropriate action in 1947.

It is action in time that counts and the duty rests always on the shoulders of public men to warn the authorities of impending dangers. Kashmir is at present facing a potential crisis which may erupt at any time, leading to disastrous consequences. Hence Sheikh Saheb's insistence on early settlement.

“Likho likho yih ghaddar ka ghaddar hai. Ek nahin 10 lakh fauj yahan Hindustan laye, ek nahin 10 lakh CRP yahan laye, is se faisla nahin hoga.”

Sir, the prosecution has not alleged that this refers to government ; and certainly it does not. I have already explained the main word occurring in this passage.

Message of united effort against lawlessness—no offence :-

Then, the last passage your honour may read. Here is his sum total of his whole speech. "Lihaza aap ko aman-a-amaan qaim rakhna chahiye". Kindly note those words. It is the message he gives to Hindus and Muslims. He has given the same message to Muslims at Jama Masjid. "Apko goondgardi khatam karni chahiye". This lawlessness should be put an end to. He has referred to "Martand" publication.

"Agar aapko koi goonda, be-iman, aapki izzat, mal-o-jan par hamla kare, chahe woh hamla kisi Hindu par ho, tum sab mohalla walon ne nikalna chahiye. Agar aaj us ne ek Hindu aurat par hamla kiya, kal tumhari aurat par hamla karega. Aap ko har qimat par aman qaim rakhna chahiye."

He asks them to stand up unitedly against this lawlessness. "If the victim of lawlessness is a Hindu lady, protect her honour because today her honour is at stake, tomorrow it may be the honour of your own women-folk. Consider her honour as your honour. Stand up jointly." I challenge the prosecution to show me if Mahatmaji used a different language while emphasising Hindu-Muslim unity.

Provisions of Sec. 121-A not attracted :

Now, Sir, I am summing up. Throughout this speech there is no inference justifiable that Sheikh Saheb preached excitement to violence, preached incitement to lawlessness, advocated use of violent methods or violence

against the government. No reference to the government occurs in the speech. Therefore, the provisions of a section which postulates overthrow of the government are not attracted. It is equally fantastic and irrational that he provoked communal hatred or disharmony. On the contrary, in very strong and emphatic words Sheikh Saheb has preached communal unity and brotherhood. He forcefully emphasized that a Musalman should consider the honour and life of a Hindu as his own honour and life. He reiterated that in case of, God-forbid, recrudescence of 1947-incidents, he will lay down his life to protect the non-Muslims. He has insisted on the peaceful settlement of Kashmir dispute between India and Pakistan so as to ensure honour, peace and progress for the State. No offence has been committed under law, and particularly provisions of section 121-A are not applicable to this matter.

(Recess)

(B)

Exp 269/C/1,—Speech dated 7th February 1958 :

Your honour, I will now come to the speech of 7th February 1958, marked as Ex P. 269/C/1. This is a speech delivered in Jama Masjid of Srinagar. Your honour will see that there are usual slogans. With the slogan of Almighty is the slogan of "Yih mulk hamara hai—iska faisla ham karenge", "Rai Shumari Zindabad". After the verses, the speaker begins his speech.

He refers to whatever he has said previously, to his indisposition and bad weather. Then there is a significant mention of the fact on the 3rd page : "Joonhi meri sehat theek ho jayegi, insha Allah main unke darmian pahunchoonga".

Defence theory about reasons for re-arrest :

Our theory is that government and those behind it were mortally afraid of Sheikh Saheb's public campaign to expose the falsehood, spread against him and his colleagues on and after 9th August 1953, when they were locked up behind the bars. Public opinion here and outside was misled. Now, Sheikh Saheb had undertaken a campaign to inform the public about the actual facts. He had revealed in his series of speeches that public had been played a fraud upon. Hindus were told some thing,

Muslims were told some thing else and public opinion had been misled. He was combating the charge of communalism against him, etc. etc. In this he had considerable success. He was contemplating to undertake a tour in rural areas. Now, the whole deception was to be exposed. The government, in the interest of self-preservation, planned to put him behind the bars again.

Insistance on final settlement through plebiscite or alternative agreeable to all concerned :

The truth was being brought home to Hindus, Muslims, Sikhs, Indians and others that Sheikh Saheb was only insisting on the final settlement of the accession issue through plebiscite, if possible, or by alternative methods if agreeable to all concerned.

Now, this was exposing those who had staged the coup of 9th August. Public opinion was solidly behind Sheikh Saheb. Now, what was the recourse for the government ? To stage another coup and conspiracy. Now, the intention of his rural tour became known to them and they made their preparations afresh.

Incidentally, it is our firm faith that unless a permanent settlement is made, Kashmir will be the breeding ground of these conspiracies and intrigues. I have made this submission in my written statement, pointing out that the National Conference leaders came to this irresistible decision early in June, 1953, when our Working Committee met.

Now, Sir, that being Sheikh Saheb's faith, he was contemplating to undertake a tour in rural areas and

naturally the government was nervous. Sheikh Saheb is referring, in this Jama Masjid speech, to the previous decision. At page 216, of this record, he says that our decision is :

“Riyasat Jammu va Kashmir ke mustqabil ka faisla abhi nahin hua. Is waqat kai dost mere yahan aur Hindustan men hain. Woh raat va din yih wazifa parhte hain ki Kashmir ka faisla hua hai. Qiyamat tak woh faisla hua hai. Pehle yih kehte hain ki faisle ka sawal hi paida nahin hota. Do baaton men jawab dete hain. Kehte hain ki suraj aur chand jab tak hain tab tak Kashmir Hindustan ka ang hai aur jab tak duniya hai tab tak Hindustan ka ang rahega. Bahar hal agar yih haqiqat hai to yih 10 saal jhagre ki kiya zarurat hai ? Jo cheez roz-e-awwal se roz-e-akhir tak hai woh kyon 10 saal jhagre men rahegi ? Bahar hal kuchh dost kehte hain ki Kashmir purane zamane se Hindustan ka hissa ata hai. Lihaza yih integral part Hindustan ka hai yani Hindustan ka lazmi juz hai.”

And then he comments on that. I may not go into that because it is the usual comment that I have covered previously.

“Is ke jawab men main ne kaha ki in doston ko achhi tarah sunana chahiye ki Kashmir ke logon ki awaz Kashmir ki aksariyat ki awaz yih hai ki yih Riyasat Kashmir ki Riyasat ne apne mustqabil ka faisla nahin kiya hai. Lihaza yih jo ang ang ka wazifa rata jata hai woh mahz bakwas aur ghalat hai. Yih ek baat hai jo main ne aap se kehni thi ki Kashmir ke

mustqabil ka faisla abhi nahin hua hai. Doosri baat jo main ne Hindustan aur duniya ke samne rakhni thi ki is baat ka faisla jald az jald hona chahiye ta ki jo pareshani tamam duniya ko amooman Hindustan aur Pakistan aur khasooan Riyasat ke bashindon ko aaj 12 saal se paida hui hai woh khatam ho jaye."

He says that Kashmir has not taken the decision yet, and it certainly had not taken the decision in accordance with the principles laid down by the Government of India. Also Pt. Jawaharlal Nehru had himself said in the Parliament in March 1955 that such decisions cannot be "unilaterally" taken. I have said that in my statement.

"Ki is mulk ka faisla woh hai jo dar asal yahan ke rehne wale Hindu, Musalman, Sikh, Isai aur Buddh mard aur aurtan karenge. Woh in sab ka faisla hona chahiye. Jis men aksariyat jo faisla karegi wohi faisla dar asal Kashmir ka hai jo yahan ke logon ko manzoor hoga. Doosra koi faisla unko manzoor nahin, na woh koi aisa faisla manzoor karenge."

Prosecution cannot say that this is subverting the Constitution. This is the only recognised democratic way. It is a different matter they may now say that they want to decide by other ways. Here the issue is not that.

The issue—what Sheikh Saheb advocated ?

The only issue here is : What is Sheikh Saheb advocating ? Is it violent and illegal way or a democratic and Constitutional way ? Is it a communal way or a

communally harmonised way, a peaceful way? That is the issue here.

Here the issue is not that prosecution are giving an alternative for settling the Kashmir dispute. Even if we weigh these two alternatives, weight of logic and circumstances will be in our favour. That is a different matter. I will deal with it when I come to constitutional side of the matter.

Here your honour may see whether Sheikh Sahab advocated a way of settlement through non-communal peaceful approach as we assert or through violent and chaotic means as the prosecution contend. As is clear from this speech as well as from others, he advocated a way of settlement in which all—Hindus, Muslims, Sikhs, Christians and others—would join, irrespective of caste and creed. He advocated a peaceful and democratic method of settling the accession dispute.

"In teen baaton ki wazahat main ne is mahine ki. Pebli baat is mulk ka abhi tak faisla nahin hua hai, doosra is mulk ke mustqabil ka faisla jald az jald hona chahiye, teesra is mulk ke mustqabil ka faisla sirf yahan ke log kar sakte hain jis men Hindu, Musalman Sikh aate hain."

I have made my submissions about the time factor and urgency in the settlement, lest it be too late. All will blame the leader at that time if some misfortune occurs. The view universally accepted is that people of Kashmir can alone take the decision. Incidentally, your honour may note that people of Kashmir not only include

the Jammu people, Kashmir people and people of Leh, but according to their own Constitution it includes the people who live across the cease-fire line.

That decision alone can be correct and final decision, not only according to my view but according to the decision and settlement arrived at between India and Pakistan under the auspices of the U.N.

The present so-called decision suffers from defects :

The present so-called decision suffers from defects and has not got these qualifications. The speaker is perfectly justified in calling this decision meaningless. Then, on page 218, you may kindly read :

“Jab aap is sachai ka izhar karenge to aapko mushkilat ka samna karna parega.”

And that is a fact. We have been bracing these difficulties, hardships, troubles and tribulations since the time we spoke the truth boldly to India that settlement is not ensured unless it is made by all the three parties.

Why this case ?

As soon as I say plebiscite, I am put in jail. If Mr. Sadiq criticises the government in the worst form possible and even sometimes transgresses the limits, he is not taken notice of. The difference between him and me is that I demand plebiscite. Therefore the inevitable conclusion is that I am here because I have insisted on plebiscite and not that I have used booby traps or gun-cotton slats, as now alleged. We do not advocate violent means. We have had no direct or indirect contact with

Pakistan. Only because Sadiq Saheb says that Kashmir is an irrevocable part, integral part of India, the accession is irrevocable, he is a persona-grata. I only say that Bakshi Saheb has not fulfilled his promise with the people, I am run in for treason !

The only difference is that I say that India and we have made a pledge to the people for the settlement of Kashmir dispute through plebiscite. That is the only reason why this treason case has been started against us. I shall be gradually coming to that part of my defence.

It is a 'sachai' that Panditji has said that India will not, and cannot, back out of the plebiscite pledge. It is a hard truth.

Prosecution wrench out words and give their own construction :

"To aapko mushkilat ka samna karna parega."

Your honour will kindly very carefully follow this line. As I will soon point out, the prosecution are wrenching out solitary words to put their own constructions on words. Therefore, I am taking your honour rather through the context of these passages :

"Aapko maloom hai 4½ saal men jab meri giraftari amal men lai gai aap ko kaha gaya ki Sheikh Abdullah ne America ke saath sazish ki. Yahan Korea ban jata. Yahan lakhon admi mar jate. Is liye ham ne us ko giraftar kiya. 4½ saal ham ne khamoshi ki. Barabar main ne un ko kaha ki agar main ne koi sazish ki hai woh adalat men pesh kare. Main

saza khane ko tayyar hoon. Magar 4½ saal tak unhon ne kuchh nahin kiya kiyonki jhoot ke paon kahan. Is waqt Delhi ja kar Bakhshi Saheb kehte hain ki jo 4½ saal pehle ham ne unko giraftar kiya tha ham haq bajanib the. Woh taqrir karte hain ki Kashmir Hindustan ka ang hai. Main kehta hoon ki agar 1953 men woh yih daleel dete, main inkar nahin karta.”

I shall meet every charge and answer all allegations. Since some passages have been highlighted by prosecution I am, therefore, commenting mainly on them. He says : “Had Bakshi Saheb accused me that I refused to consider Kashmir as an integral part of India when he arrested me in August 1953, I would have accepted it. In 1953 I had been saying that Kashmir can become an integral part of India only after plebiscite”. Had he then alleged that the Sheikh was arrested for his refusal to accept Kashmir as an integral part of India, Sheikh would certainly not object to that. But Bakhshi had then alleged that Sheikh was an American agent and, therefore, he was dismissed and arrested. Kindly look at the jigsaw puzzle made by the prosecution of this simple statement. Look at the distortion made by the prosecution.

Two hundred cases withdrawn :

Only the other day nearly 200 cases against the Democratic National Conference workers were withdrawn from the courts, as soon as they agreed to support the Government and reiterate that Kashmir's accession was irrevocable. But in our case, even evidence is fabricated and our statements and speeches are distorted.

Conspiracy with America—charge shattered :

However, Sheikh Saheb says that in 1953 the charge for his dismissal was that he was an American agent. Now that he has exposed the hollowness of the charge, after his release, the opponents allege they arrested him in 1953 because he did not admit that Kashmir was an integral part of India. Sheikh Saheb said that had they put forward this reason in 1953 that I did not concede that Kashmir had not become an integral part of India I would have accepted that version. This is the sense and significance of his words. Your honour may mark in the long-hand script the words used are : "Agar 1953 men woh yih daleel dete main inkar nahin karta". "He had given this reason for my dismissal and arrest and I had challenged the inviolability of accession, then I would have accepted it". The charge in 1953 was that he will convert Kashmir into Korea by entering into a conspiracy with America. "1953 men woh Amriki saizish kehte hain aur is waqt woh yih baat kehte hain". Today they swallow that up

Now, prosecution has sought to interpret this as meaning that Sheikh Saheb would accept inviolability of accession in 1953 but today he has changed.

Public Prosecutors in rest of the world and in this case !

Public Prosecutors all over the world would put even evidence in favour of the accused before the court. Here they will distort the clear language of their own document in order to harm the accused.

The charge was that Sheikh Sahab had changed. Why ? According to them, because he has lost the chair. What greater charge of immorality and political opportunism can be levelled against a public man of his stature ? It is a stroke of good fortune that somehow we got some certified copies of the documents in time so that they can't wriggle out now.

“Kiyonki aaj main kehta hoon ki is mulk ka faisla yahan ke log kar sakte hain. Aur kuchh bhi main nahin kehta hoon.”

My interpretation is borne out by every word that occurs here and by the context. The jigsaw puzzle which they manufactured is exposed as most baseless. Their inference, therefore, is untenable. I may be excused if I use stiff words. They are not intended to refer to any particular person. This is virtually a police investigation here, Sir.

Inference Sheikh Sahab shifted grounds—most unwarranted :

Your honour may remember that Sheikh Sahab has averred that had Bıkshi Sahab made this accusation in 1953 that he did not accept the finality of accession, he would have pleaded guilty to the charge. Today also he does not accept that. Now, therefore, the inference that Sheikh Sahab has changed, is most unwarranted.

The prosecution have tried to show that the alleged change in Sheikh Sahab after Delhi Agreement was made, after accession was ratified by the Constituent Assembly

and after Constitution had been passed etc. etc. After all this is gone through Sheikh Saheb's reversion to original position is a challenge to the Constitution. That is the prosecution stand. All these things took place after 1953 and not before 1953, except the Delhi Agreement.

I will show in due time that whatever was agreed was implemented and the rest was left over for further consideration. All the happenings are post-1953 except Delhi Agreement. Therefore, that inference is not correct.

"Kiyonki aaj main kehta hoon ki is mulk ka faisla yahan ke log kar sakte hain. Aur kuchh bhi main nahin kehta hoon. Hindustan Kashmir ke 40 lakh admion ke saath dhoka karna chahta tha. Yih dhoka woh tamam duniya ko dena chahta hai."

"Dhoka" has become very clear because they alleged shifting of grounds by Sheikh Saheb. "Hindustan Kashmir ke 40 lakh admion ke saath dhoka karna chahta tha." Now, Sir, criticism may be stiff but the question is, does it tantamount to treason, does it amount to preaching violence?

India Government's stand :

At one time India Government said that they cannot, and will not back out from the pledge of plebiscite. To-day they say conditions have changed. At one time they said Pakistan is a downright aggressor, we will have nothing to do with her. On subsequent occasion, they sat round the table with her and thrashed out details of

Kashmir dispute with them. At one time they said that every inch of Kashmir soil is sacred and "we shall clean and clear it of the aggressor". Today they say that the cease-fire line be freezed and let one part go to Pakistan, etc.

I will not use the word 'fraud', but tell me what is this? At one time they undertake that every person uprooted from his home and hearth whether on that side or this side of the ceasefire line, will be rehabilitated. Today they say wherever the uprooted refugees are, let them settle down there.

They partitioned India on the clear agreement between Congress and League. Now they apply the politician's knife to Kashmir. In Kashmir, the present division is a military decision, foisted on us. The people on either side of the cease-fire line are suffering. Their leaders have not decided. Gandhiji warned about this.

Therefore, in Gandhiji's time they gave us solemn pledges that they shall clear the Kashmir soil of the outsiders and that accession issue will finally be decided by the will of the people in a plebiscite. Now, all that is being cast to winds.

Who is shifting the ground ?

Who is shifting the ground? Your honour, kindly consider Sheikh Mohammed Abdullah's position who after getting these pledges from India, repeated them over to the people. What will they think of him now?

In the past at Hazratbal, in the sacred shrine of the Prophet of Islam, hundreds of time he told Kashmiris the territory of Jammu and Kashmir will be cleared of all foreigners—whether they come from this or that side, that people who are uprooted will be restored back to their homes and hearths and that every adult in the State—Hindu, Muslim, Sikh—will have the right of free vote to decide the future of the State.

To say India Govt. resiling—not treason :

What is he to tell them now? He says in plain language that Indian Government is resiling. I repeat this is not treason. In democracy, you can keep the government on proper rails only by healthy criticism. If you stifle that, you kill democracy and you violate fundamental rights.

Ruthless criticism—service to India, Nehru and democracy :

Once there was a firing on students in Patna, Bihar. Mr. Jai Prakash Narain gave a ruthless statement, criticising the Prime Minister of India under whose administration innocent blood of students had been shed. That public criticism was greatest service to India as a whole and to Jawaharlalji in particular. That was the greatest service to democracy. This is the guarantee of keeping the country on healthy lines. Give that up, you get military regimes. Suppress it, you betray democracy.

Aimed at salvaging India's honour :

In my written statement I have said, and that is our conviction, that Indian honour throughout the world and

Indian prestige in the sub-continent and affection of the people of J&K State will be salvaged if that pledge of 1947 is implemented and if the people are given the right about the disposal of the State.

The words of the speaker are just to emphasize that the pledges are to be honoured and commitments made to the world and the people of Kashmir are implemented. It only said in emphatic way in order to persuade India to honour her pledges. Otherwise no disrespect is meant because you will see that the self-same speaker says :

“Mere jo unke saath qaribi taluqat hain, woh mujhe yad hain. Mujhe kabhi nahin bhool jayenge. Is waqt bhi us ke liye mere dil men izzat hai.”

Here Sheikh Saheb has said that so far as Panditji is concerned, he considers himself a member of his family and he respects him. It is not intended to excite ill-feelings or hatred. The only intention is to bring back India to the implementation of her pledge, as in the implementation of that lies the honour of India. Kindly remember, he is addressing India, big democracy of India.

Dependence on public opinion of the world—most peaceful method :

“Sheikh Abdullah woh dhoka khane ke liye tayyar nahin. Yih jo bara fraud jo hai Sheikh Abdullah us ko nanga karna chahta hai.”

When you say that you will put a certain issue before the bar of the world opinion, you only show your faith in peaceful and democratic methods. Why have we got

the United Nations in these days ? It is an instrument of expression of world public opinion and is an alternative to war and violence. Sheikh Saheb is talking of those principles. Not that he has got army, international ballistic missiles, rockets, etc. No. He relies solely on public opinion of the world, which is a democratic way. Your honour will note that again it excludes totally the idea of violence. Words may be strong. "I will place it before the world to mobilise public opinion". If you deny that, you deny the democratic right and you subvert the Constitution.

"Ta ki duniya ko pata lage ki Hindustan ki bari jam-hooriyat kis tarah mazloomon ke saath dhoka karti hai."

Assess intention on basis of context and contents :

I have reminded you already of the circumstances of the speaker, his stature and his position and the character assassination of which he was the victim, as also of the pledges he has given to the people of the State on behalf of India when he took them away from the Muslim League politics. Now, he is speaking in that setting. Words may be stiff but look to the context and the content, Sir. He speaks of his intention which is not to subvert the Constitution, not to excite violence. Mr. Pathak rightly said that we have to gather intention from words used. Here is his intention. You cannot gag a man for placing his case before the world. If you do it, you murder democracy and subvert the Constitution.

"Ham ne Hindustan ke saath is liye rishte qaim nahin kiye ki dhoka khaye."

Words may be stiff but I have told your honour to consider the position in which he is.

Common ground —Gandhian ideology :

“Ham ne Hindustan ke saath is liye rishte qaim nahin kiye ki dhoka khaye balki is liye ki us ne Gandhi jaisa admi paida kiya tha.”

i.e. our common ground was the Gandhian ideology. There was to be no discrimination between Hindus and Muslims. We put unflinching faith in moral forces as against material forces. “Gandhi jaisa admi paida kiya”. Gandhi had preached to the world that violent means are condemnable and that truth is the only path to peace. “Hamari yahi rai thi”. “We hoped India will be the guarantee of our democracy”.

Believed pledges would be honoured :

This was our hope but what happened on 9th August and what is happening since then? This is the interpretation I am putting on these words. Such criticism is not banned in democracy. “Jhote waade nahin karega”. We always believed that if India Govt. could not drive out Pakistan troops from Kashmir, it would not make a promise to us. If it could not reunite the two parts of the State it would not promise and if it did not intend to, or could not hold a plebiscite, it would not make that pledge. “Lihaza Kashmir ke log unke saath chal rahe the”. In that belief we went hand in hand.

Point of clash—historical event :

“Jab main ne dekha ki Hindustan ki niyat badal gai hai, woh un tamam waadon ko “allam, ghallam, nallam” karna chahte the. Sheikh Abdullah is waste tayyar nahin tha.”

He says that he was not prepared for the change-over. Indian Govt. resiles from the plebiscite pledge but he says that he must stand by the people.

“Lihaza Sheikh Abdullah unke raste men kanta bana jo unhon ne alag karna chaha ta ki woh apna dhoka tamam Kashmir ke logon ke saath chala saken.”

Therefore, he became a thorn in their side and they wanted to pull and throw him out. Thus he comes to a point of clash with India. “When India wanted to resile from the commitment I said I cannot go with you”. This is history. Do you want to suppress it ? Either say we are governed by a martial law, but if you are a democracy then this criticism, however strong, as long as it does not invite violence, is not only indispensable but is the life-breath of democracy. It must be allowed and encouraged.

General criticism not covered by Sec. 121-A :

Sir, this may refer to Government of India or to any individual who gave the pledges. The proper inference will be it refers to India generally. But if prosecution infers that it refers to Government of India, that interpretation is not sustainable. If it refers to a particular individual in Govt. of India, then it is not covered by Sec. 121-A. In any case, it is a general criticism. It does not constitute any offence.

Background of defence view—as per prosecution document :

Your honour will remember that the sole object is to inform and educate public opinion which is not an

offence.

“Chunanche sachai ke izhar ko rokne ki unhon ne koshish ki”.

Now your honour has got the complete background of our view of the matter from the prosecution document produced not now, made not now, but years before now—how we were victimised, what was the reason of conspiracy against us and why Sheikh Saheb's government was overthrown. You have got that material fortunately from the prosecution documents.

It becomes at once understandable that all those spontaneous demonstrations which were made by the people on 9th August against this murder of democracy were ruthlessly put down by widespread shooting and manslaughter.

Defence crystalised—basic difference, demand for plebiscite

Now, the picture of our defence becomes clear. Our defence is crystalised. With such a mighty authority as Government of India behind it, it can be easily understood why and how people were ruthlessly put down, and why no judicial enquiry was made. Our basic defence gets stabilized that our sole difference is the demand for plebiscite. That is being stabilized by the prosecution documents. This statement of Sheikh Saheb is extra-judicial. His mind was free and he was frankly speaking to the people.

“Intehai sakhti se sainkron mard, aurtan, boorhe golion ke neechе shaheed kiye gaye, jailon men hazaron log chhore gaye. Unki taangen tor di gaeen,

loot liya gaya. Izzat-o-aabroo koi cheez mehfooz na thi".

It has become very clear now as to what is "Haq". It is demand for this right.

"Aap ko yih teen baten zahan men rakhni chahiye. Kaun si teen baaten ? Ek yih ki is mulk ka faisla tak abhi tak nahin hua hai. Doosri yih ki is mulk ka faisla jald az jald hona chahiye. Teesri baat yih ki is mulk ka faisla sirf yahan ke log kar sakte hain aur koi nahin".

On this point I have not to add anything, Sir.

Suffer in patience :

Court will kindly now read 4/5 lines down below ;

"Is men sirf ek hi baat hai, Jo Khuda ki khatir maidan men nikle hain, jo Allah tala ki sachai ke liye maidan men nikle hain woh nihayat khushi se tamam taklifat bardasht kar sakte hain".

Those sentences are important. Your honour will see that he only says "suffer in patience". He quotes the Word of God in order to make it most forceful i.e. he intends this to be acted upon and strictly to be followed. "Nihayat khushi se tamam taklifat bardasht kar sakte hain". They should keep the banner of truth high and flying and suffer all hardships and privations patiently. This is the Gandhian language. "Wohi kirdar aap ne bhi ada karna hai".

Then he talks about the high character of man. (It seems, Sir, that on account of change of spool something is left out).

Court : But there are two spools.

Mr. Beg : It is different, not linked. I want to quote the words he used.

Court : Pass on to second spool. Have you got it ?

Mr. Beg : Yes. Second page starts with 'zahur hua'. He refers to the historical events and philosophy behind them.]

Court : What do you want me to do about it ?

Mr. Beg : My submission is that there is nothing objectionable in this passage.

Now, Sir, read Mr. Pathak's comment : "The theme of the speaker is that 'truth is accompanied by difficulties and helplessness as opposed to falsehood which has temptations of wealth in abundance'. (So far so good). The result of painting this picture before the audience is to create a feeling against those who are on the side of falsehood i.e. the government !" That is the prosecution view of the passages I have just commented upon.

One is judged by the words used :

Your honour will judge us by our plain words which we have used. That is the principle recognised in the world that one is judged by the words he uses. If we say that we are in favour of truth, will that mean spreading hatred against the Government ?

As I said yesterday, it is a long way between not praising a government, not extolling a government, and positively creating hatred against the government. It is latter, creating hatred against the government, which is an offence. Even that has now become a dead letter. Creating hatred is provided in Sec. 124-A which has been declared ultra vires by High Court.

General statement no provocation to lawlessness etc.

Sir, the speaker says :

“Us waqat us sachai ka sath dena bahut mushkil tha. Uski mukhalfat bare bare insan karte the. Agar koi sachai ki awaz uthata tha, uska sath dena bara mushkil hota tha. Aage takleef hi takleef hote the. Aram ki baat hi na thi. Aise waqat sachai bekasi ki halat men hoti thi. Unko is baat ka yaqin nahin hota, rupiya banega, kothian banengi, theke banenge, unko sirf raza e-Khuda dhoondna hota hai. Lekin jinhon ne Khuda tala par sidq dili se iman rakha ho unki rah men kante jo hote hain phool dikhai dete hain. Haqiqat yih hai ki duniya men do qism ke admi hote hain: Ek bahaduron ki jama'at hai. Jab woh haq ka izhar karte hain, jab woh haq ki tabligh karte hain, unki rah men mushkilat paida hote hain, kante aate hain. Magar woh zehar peete hain aur bardasht karte hain. Jab unki thanon men remand hoti hai, jab woh ghar se beghar kiye jate hain, woh unke liye zehar ka piyala hota hai, jis tarah hamare bahut se dost, unke baal bachche paresbani men ha'n magar woh bardasht karte hain. Theek hai woh bardasht karte hain, lekin zehar akhir zehar hai. Uski talkhi

unki zabanon par maujood hai. Bahadur hain, jawan-mard hain, woh sabar se jailon men pare hain”.

Now, Sir, in this passage he refers to general matters regarding hardships and difficulties that a man who stands for truth faces in his path, as against one who betrays truth and gets worldly pelf and power. It is a very general statement. Then he comes to his colleagues who are in prison and suffering privations for the right cause. Now, the question is how does it incite violence or excite hatred or provoke lawlessness? No word to suggest that has been used by him.

Religious appeal no political exhortation :

Now, thereafter your honour might skip over about a page :

“Sara Arab us ki mukhalfat men utha. Us waqt Hazrat Abubakar Siddiq jo us mulk ke rais the woh Janab Mohammed Mustafa ki dawat par aye. Unhon ne kaha ki Allah tala ek hai aur Mohammed Mustafa us ke Rasool hain. Is ki shahadat main deta hoon. Unko kaha gaya ki agar is baat par shahadat do ge to sara Arab unko takleef dega. Do baaten hain, ya tamam duniya ki takleef bardasht karo ya Khuda ki rehmat hasil karo. Unhon ne doosri surat qabool ki. Isi tarah jang-e-Uhud men jo sahab saheb shaheed hue, us waqt wahan ek bare sahab saheb the jo un men se the. Us ke bad wahan par aur 70 sahab saheb shaheed hue. Mohammed Mustafa wahan dekhne aye ki zakhmi kaun kaun hai. Unhon ne Hazrat Sa’ad ko zakhmon men choor hue dekha. Unko jankani ki halat men dekh kar sahab sahiban ne awaz di aapko kuchh

wasiyat to nahin karni hai. Unhon ne jawab diya ek wasiyat hai. Meri salam Janab Mohammed Mustafa tak pahuncha do aur sare Musalmanon ko kahen ki Mohammed-ur-Rasool Allah ke liye apni janen qurban karen. Isi tarah doosre sahab saheb the jinka naam Ammara bin Zaid tha jo usi maidan men zakhmi hue the, jankani ki halat men the. Jab Mohammed Mustafa unke nazdeek pahunche, woh jankani ki halat men tha. Unhon ne farmaya : Ai Ammara, kiya aap ki koi khawahish hai, mujhe kahen. Unhon ne kaha : Ya Rasool Allah, phirte phirte woh ret ke maidan men aa gaya, apne sar ko unke paon ke neeche rakha aur farmaya : Ya Rasool Allah, yahi khawahish thi ki jab main maroon us waqt aap ki rehmat ki nazren mere munh par honi chahiye aur meri nazren aap ke ru-e-naznin par honi chahiye."

The last conclusion is : "Agar aap ko Janab Mustafa ki mohabbat hai to aap yad rakhen ki jis tarah in do sahab sahebon ne woh mohabbat ka jazba dikhaya, wohi mohabbat aap ke dil men bhi honi chahiye". Sheikh Saheb has cited two instances of the followers of Prophet of Islam who were so much devoted that before they breathed their last, one of them was asked about his last wish. He begged to be taken to the Prophet. When he touched the feet of the Prophet he said that was his last wish and then breathed his last. Sheikh Saheb is citing instances of the love of God and he has referred to the two wars of Uhud and Badar in this speech. From this the inference of the Prosecution Counsel is that a very strong religious appeal to the audience is made. They are addressed as Muslims and exhorted to fulfil his

desire of self-determination. By a religious appeal exhortation is made for political matter.

Wrong interpretation of religious & Islamic history :

Now, Sir, where does that come from ? It is most unwarranted.

Sheikh Sahab has cited two instances of the followers of the Prophet. Before they breathed their last they said that they wanted to see the face of Prophet. The prosecution says that the speaker is referring to the government and creating hatred ! This is very unfortunate that religious history, Islamic history, should be interpreted like that.

Does not mince words :

When Sheikh Sahab spoke of politics he told the people plainly what his politics was. That message he openly addressed to Hindus, Muslims and Sikhs. Here he is telling the people in plain words about the love of Prophet. The prosecution inference is absolutely unwarranted.

Prosecution objections :

Your honour might take the long-hand printed book. That will be easier. Take up now page 232 :

“9 August se unhon ne ham par zulam kiye. Chunan-che hamara ghar ka hi bhedi tha. Unhon ne mulk ke sath ghaddari ki. Mukhtalif tariqon se hamare kar-kunon ka iman kharida. Unhon ne is taraf se unko jailon men band kiya.”

This is the passage referred to by prosecution and I have thoroughly explained that their inference is wrong. Then on page 233: "Jin doston men 27 sal se mere mutaliq ghalat-fehmian paida huin theen unko waqt waqt par main ne apni imandari ka saboot diya." This was read out by the prosecution.

"Main sirf chahta hoon ki khasoosan jo yahan ki aksariyat uftada Musalmanon ki hai woh oopar uthen. Khuda tala ne jo mohabbat paida ki hai woh qaim rahe."

This was objected to by the prosecution. As a matter of fact Muslims generally were considered backward. Your honour can take the judicial notice of that fact. Look at their educational and economic backwardness. Who can deny Harijans also are not backward?

"Dushman intehai koshish karega bahmi jhagra paida karne ki taki aap ka ittehad kamzor ho jaye. Aap ki danai yih hai ki aap sabar se kam len. Is mahine men main ne kafi koshish ki ki Hindustan ke jo leader hai ya yahan ke jo kursi-nashin hain, woh koi daleel pesh karen. Woh sirf dhamki dete hain."

He is inviting others to discuss the matter.

"Fauj waghaira ki main is ka kiya jawab de sakta hun."

But if they rely on armies, then he says that is not his province. "My work is to reason it out."

Who wants lawlessness, shall not argue!

"Woh kahte hain ki Sheikh Abdullah ne sab kuchh kiya, ilhaq us ne kiya. Woh ab apne waadon se phir

raha hai. Sheikh Abdullah un baton se inkar nahin karta hai jo us ne 1953 se pehle kiye. Yih sab baten main ne rai shumari ke tabe kiye. Jo faisla main ne kiye woh awam ke rai shumari se tabe kiye. Har ek faisla men yih pehla sharat rai shumari ka tha. Chunariche 1947 men jo qabaili hamla hua, Hindustan ki jo fauj aai us waqt bhi yahi sharat tha. Us waqt main ne, Bakhshi Ghulam Mohammed ne, Sadiq, Beg Sahab, Moulvi Saeed Sahab waghaira yahan ke leader, Sardar Patel, Pandit Jawaharlal Nehru, Mahatma Gandhi ne tamam ne apni taqriron men Kashmir ke logon ko barha yaqin dilaya ki aman ki halat men yahan ke logon se rai li jayegi."

It is a historical fact and it is an established fact. There is nothing derogatory in that.

"Yih taqriren barabar ki gaeen, halanki agar koi leader taqrir karta tha, woh tamam is sharat ke tabe theen. Lihaza jo kuchh main ne 9 August tak kaha woh sab rai shumari ke tabe tha. Aaj bhi main wohi kuchh kehta hoon. Jab jab Hindustan ke leadron ne koi meeting ki, koi jalsa kiya, bar bar is bat ka yaqin dilaya ki Kashmir ka faisla rai shumari se hoga."

He says he has not changed. He is repeating history.

"Itna hi nahin, Janab Bakhshi Ghulam Mohammed ne bhi yahi elan kiya. Kehta hai ki jab jab ham ne koi jalsa is bare men bulaya, Assembly bulai ya election kiye, yih sab cheezen isi ilhaq ke usool par ki gaeen ki aya ilhaq Hindustan ke sath hona chahiye ya Pakistan ke sath. Yahi masla us waqt pesb tha. Lihaza ham ne yih faisla kiya hai. Ab kis baat ka faisla reh

gaya hai ? Main un se kehna chahta hoon ki jab 1953 men Wazir-e-Azmon ki conference Nai Delhi men hui aur bahmi elan yih kiya gaya ki Kashmir ka faisla azadana rai shumari se hona chahiye. Us ke 21 August ko Bakhshi Ghulam Mohammed ne bahasiyat Wazir-e-Azam yih bayan diya ki jo do Wazir Azmon ka bayan nikla hai yih hamari razamandi se kiya gaya. Kashmir ki hakumat is ki puri tarah tayeed karti hai. Main Janab Bakhshi Saheb se poochhna chahta hoon ki agar tum ne yih faisla 1950 men kiya hai to 1953 men yih bayan kiyon diya ? In chalbazon se yih haq chhupa nahin reh sakta hai. Gahe daroon, gahe baroon, gahe neeche, gahe oopar. Is se na Kashmir ke logon ko koi faida pahunch sakta hai aur na Hindustan aur Pakistan ke logon ko."

Throughout he has said that in regard to the State's relations with India whatever has taken place in the past is subject to the promise of plebiscite. He recalls that when the two Prime Ministers met in Delhi in 1953 they issued a communique in which they re-emphasised the settlement by plebiscite. Bakshi Ghulam Mohammed said that this communique had been issued with his consent. It is again history and a hard fact. Your honour saw that whereas he referred to his colleagues as Beg and Maulana Saeed, to Bakshi Saheb he has referred to as Janab Bakhshi Saheb. That cannot be out of sentiment of hatred or indignity ? Prosecution must not have any grouse that Sheikh Saheb has referred to Bakshi Saheb "bahasiyat Wazir-e-Azam" and not as "so-called" Prime Minister. Also, your honour might note Sheikh Saheb is arguing out different issues. A man who wants to create lawlessness does not argue.

Condemning waste on armaments :

Now, the passage that follows is :

“Yih masla 45 karor admion ke liye nasoor bana hua hai. Main chahta hoon ki yih nasoor kisi tarah door ho jaye. Main chahta hoon ki is barr-e-azam ke 45 karor log aram ki zindgi basar karen. Lakhon karoron rupiya Pakistan jangi saman par kharach karta hai, lakhon karoron rupiya Hindustan jangi saman par kharach karta hai. Yih rupiya logon ki bhalai par kharach ho sakta hai.”

He is condemning all this waste on armaments, whether by India or by Pakistan. “Yih rupiya logon ki bhalai par kharach ho sakta hai.” This is what the Prime Ministers of both the countries have often repeated.

“Do mulkon ke darmian kasheedgi nihayat hi buri hai, khas kar do hamsayon ke darmain nafrat bahut buri hai. Ham saf kehte hain jo waade Hindustan ke leadron ne Kashmir ke logon ke samne kiye, jo haath Hindustan ne Kashmir ke logon se diya, agar main yih waade dohrata hoon to yih kahan ki baghawat hai ?”

Your honour might pass over the next three pages and come to page 240. Here Sheikh Saheb is quoting Prime Minister of India. There is nothing objectionable in it. Again he is quoting on page 241 :

“Agar Riyasat Jammu va Kashmir ke awam se ham juda hona chahte hain woh apna rasta lenge, ham apna rasta lenge. Ham na jabri shadi ke qail hain aur na jabri ilhaq ke.”

These are his convictions. Sir, what follows is repetition of the same thing. Prosecution have read out this passage but there is nothing except repetition of what has been said so far.

Criticism life-blood of democracy :

Now, the last line of this page 241 :

“Aj woh kehte hain ki jab ee yih duniya bani, yih Kashmir Hindustan ka ang hai. Bahar hal Bakshi Ghulam Mohammed ko kahenge. Uski surat bandar ki jaisi hai. Nak men rassi hai. Usko woh Karamdin Khotni ki tarah nachwate hain.”

This is what the other side says. Please do not take the simlie in physical sense. “Bandar” is one who blindly apes and imitates without exercising his mind. It is used in metaphoric sense and not in literal sense. That means that somebody is pulling the wire. “Bandar ki tarah nachwate hain”. The context shows that somebody is dancing to somebody’s tune. In democracy one has got to be thick-skinned and prepare himself for ruthless criticism.

Look at Panditji’s cartoons. Look at Mr. Churchill’s biography in cartoons. Those are free countries. One loves to have similar traditions. If your honour reads “Shanker’s Weekly”, often he portrays a cartoon of Panditji or some minister. Criticism is the very life-blood of democracy. The speaker in this metaphorical expression says : “Bakhshi Ghulam Mohammed, Prime Minister of Jammu & Kashmir, is dancing to somebody’s tune.”

When the two Prime Ministers said that there will be plebiscite, Bakshi Saheb said that this was done on his advice. Finally, when the Prime Minister of India says "background has changed", he also says that the background has changed.

Bakshi Saheb asked to exercise own judgment :

"Let him exercise his own mind", says Sheikh Saheb. It is good healthy criticism. Of course you cannot make people understand unless you use metaphors and idioms. Sheikh Saheb has given them an example to clarify that Bakshi Saheb should exercise his own judgment and see the realities of life. He is the Prime Minister of the so-called autonomous State.

"Haqiqat yih hai ki ek shakhs 20/25 saal mera sathi tha. Mujhe us se bari hamdardi hai ki us ne apna kirdar kis kis khak men milaya hai. Kis mohabbat se yahan ke log Khalid-e-Kashmir kehte the".

He recollects that comradeship, he recollects the training he gave him ; and mournfully and sadly Sheikh Saheb remembers he was his colleague for 25 years. "I have tremendous sympathy with him. Let him not act like a monkey".

He is grieved for the old comrade. Do you find in it forceful sentiments of love or condemnation ?

In nut-shell the prosecution approach is : Whether Sheikh Saheb reads Quran or he says he shall give his blood to protect the honour of Hindus, he must be presumed to create hatred or to attempt the overthrow

of government, and, therefore, must be put behind bars.

Reproach to younger brother—not creating hatred :

“Aj us mohabbat ko us ne chand takon ke iwaz bech dala, phir dhamki deta hai ki main iron-man hoon”.

He is reminding Bakshi that a man of iron-will will have a determination of steel. He should not, therefore, act on wire-pulling of others. He must have his own initiative. At the worst, this is reproach to a younger brother. It is fantastic to construe it as an attempt to create hatred.

Sir, whatever has been said about Bakshi Sahab by innuendo or otherwise does not indicate any feeling of animosity or bitterness. On the contrary there is a sentiment of deep love and affection in these terms. He has called him his old comrade with whom he has spent a quarter century.

“Blood of my blood, flesh of my flesh”

“Bhala mere hathon se pale ho, kis ko iron-man kehte ho ?”

These are pathetic words in which I would refer to my dearest and not to my enemy, not to one for whom I have bitterness and animosity. This I will say to one who is blood of my blood and flesh of my flesh.

“Main sirf yahi kahoonga parwardigar unko sahih rasta dikhaye”.

In those terms he refers to him. Far from being derogatory, these are terms of love and affection. Of course there is sorrow and grief for parting of ways. He leaves it to God.

Our cause depends on peace—not turmoil and lawlessness :

I have done with this speech. Your honour might turn to page 228 which I missed. With your permission I read the passage. It was also read by the prosecution in their own way :

“Aap ko jo yih haq ki awaz buland karni hai us men taklifat aur mushkilat ayenge. Yih aap ko sabar aur tahammul se bardasht karni hain”.

The central point even here is that the audience will have to bear hardships with patience and fortitude.

“Haq ki awaz aap ko aage barhani hai. Akhri baat yih hai ki haq aur sachai ki awaz aman chahti hai, woh shor-o-shar nahin chahti hai”.

Kindly note that he insists that our cause requires peaceful atmosphere. Assuming that he personifies himself with truth, take that interpretation for a moment, even so he emphasizes that his cause depends on peace and not chaos and turmoil, not lawlessness.

If you assume, as prosecution wants you to assume, that Sheikh Saheb personified with the truth and put himself on the side of the truth, then his side wants peace. Chaos and turmoil will be fatal to our cause.

Chaos and turmoil created to make lie appear as truth :

“Juthiara jo hota hai us ki koi haqiqat nahin hoti. Woh sirf “dabri” bajata hai, shor karta hai taki jhoot ko sach bana sake.”

That is, he makes the noise and trumpets so that the lie might appear as truth.

“Lihaza woh fasad uthate hain, hangama karne ki koshish karte hain. shor-o-shar karne ki koshish karte hain. Aap ko nihayat sabar aur tahammul se unke yih shor-o-shar bardasht karne chahiye. Hangama aarai se kam nabin lena chahiye”.

Now, how else shall we open our hearts ?

‘Is se aap ko nuqsan hai’.

No words can be clearer, no language can be more forceful !

Here are the words, Sir. He beseeches his audience to suffer all hardships with patience, forbearance and fortitude and he warns them to avoid any sign of ‘shor-o-shar’ or turmoil. “Hangama aarai se door rehna chahiye”. And he warns them to avoid loss, in turmoil and chaos. In any disturbance of peace or in any disturbance of law and order loss would be theirs i. e. of the audience.

Adversary's gain in disorder :

I have put down in my written statement that we know it well that it is our adversary who will gain by creating disorder. And Sheikh Saheb also emphasizes that they must suffer patiently all privations.

Now, there is no indication, throughout the speech, of any incitement to violence, of any excitement to communal hatred, nor any intention, even remotest, to create disorder or use criminal force to overthrow the government.

There is no indication, even the weakest, remotest or the faintest, to annex the State by any means with Pakistan.

Resume of prosecution charges and replies :

Prosecution inferences are irrational and unjustifiable. They have alleged that Sheikh Saheb has used religion as an instrument to gain political ends. That is far from truth.

He has used religious history and Islamic history, to cement communal relations between various classes by quoting Prophet and God's words from Quran. He has used religion as a cementing force to strengthen the links of brotherhood and love amongst different communities, and not to gain political ends. That charge is baseless. Another charge relates to spiritualising politics. That is not a charge that should be prosecution's ambition.

Gandhiji used to quote in his prayer-meetings from Gita, Quran, Bible and from Granth. That is a channel through which you can approach masses for all good purposes. You can use religion to cement the relations between the various communities following various religions.

Sheikh Saheb has said very clearly in one of his speeches that he prays that a Hindu may follow Gita, a Sikh may follow Granth Saheb and a Musalman may follow Quran.

It is true if Sheikh Saheb has now and then referred to live problems of the day. He referred to repression perpetrated by agencies of the government and also about the molestation of ladies etc.

Characteristics of the speeches :

If you want to keep democracy alive and functioning, it must always be watched upon by ruthless criticism from public platform, of course without preaching violence, and that has been the characteristic of Sheikh Saheb's speeches.

I have gone through his speeches, Sir, and I have not found a word about inferences that the prosecution wants to draw. I refute them one and all. On the contrary I have found a good deal in his speeches which I have put before you, that establishes our non-communal, peaceful and democratic approach to the problems.

In spite of that if you think citing Quran, teaching people to follow Gita and their respective religious books, creates communal hatred, it is unfortunate. The only instance in history, comparable to that attitude, is that of the Haternic system of Austria. In that ruthless regime of the Prince, a professor was teaching his students. Perhaps the subject was geography and he was illustrating that earth is round by pointing to the globe.

The Intelligence Officer noted down and reported to the despotic Prime Minister that the professor was advising the people to use hand-grenades and bombs. The evidence was that he demonstrated globe before students, which is round like a bomb. Therefore, the professor was jailed. The object is to keep Sheikh Saheb behind the bars because he is demanding plebiscite.

I conclude comments on these speeches by reiterating that Sheikh Saheb wanted the people to be peaceful and helpful in the establishment of relations of amity and brotherhood between India and Pakistan and to remove this bone of contention, namely the dispute about accession of the State, which is embittering the relations of two great neighbours. He advocated ceasing tension and establishing friendly relations and help saving crores of rupees which are now being spent on arms, which could be spent on far better purposes of providing food for the starving people.

With your honour's permission I will take up Exp. 72, a copy book. Then I shall pass on to other arguments.

General observation on inferences about Constituent Assembly etc. :

As regards the inferences and allegations of Mr. Pathak about Consenbly, about impossibility of holding plebiscite now, about Constituent Assembly being substitute for the plebiscite, about Security Council's capability to interfere, about the power to frame the Constitution, etc. etc., these are matters which require a special

treatment. He has drawn these inferences from the speeches. I shall deal with them in different topics. Here I will only content myself with the general observations that the inferences he has drawn are not correct.

Constituent Assembly was never considered to be a substitute for plebiscite. Constitution never meant disposal of the question of accession. Inferences drawn by him are constitutionally untenable and legally incorrect. I shall deal with them later on. I will not deal with them by a simple stroke of tongue as he has done. These are questions which go to the roots of this prosecution. They require special and detailed treatment. They cannot be dismissed so lightly. They touch vital issues. After generally saying that I do not subscribe to inferences he has drawn, I reserve my right to treat these matters in separate topics.

Court : We will meet next on 31st of May 1961.

CHAPTER VI
Defence Arguments

(June 1, 1961)

By

MIRZA MOHAMMED AFZAL BEG

On

**Sheikh Mohammed Abdullah's Speech :
Letters written from Sub-Jail, Kud.**

ExP. 72 (Series)

CHAPTER VI

(1st June 1961)

(A)

Your honour, I was dealing with Sheikh Sahab's speeches last time when the Court broke up for a brief interval. Having finished with those speeches I submitted to your honour that prosecution had sought to draw certain inferences from the speeches.

Inferences regarding grave issues incorrect :

These inferences were, briefly, that the convocation of the Constituent Assembly in Kashmir was abandonment of the right of plebiscite, that the decision of the Constituent Assembly of Kashmir could not be subject to plebiscite and that Security Council could not interfere in this matter which was a domestic matter. They also drew the inference or made the contention that plebiscite means ascertainment of the wishes of the people and this had been done through the Constituent Assembly of Kashmir.

Sir, these are grave issues. Whereas I strongly repudiate these contentions and inferences. I submit that these matters, these issues, cannot be so lightly dismissed, as the prosecution have done, in a sentence or two. I, therefore, reserve my right to answer these issues in some details when I come to the topic of consti-

tutional treatment of issues—Constitution and law as well as facts. I shall then submit to your honour that all these contentions, inferences are incorrect, illegal, both historically, factually and legally.

—X—

(B)

Letter-exhibits of Sheikh Saheb reveal peaceful policy :

Meanwhile, Sir, I am proceeding to another series of documents produced by the prosecution in this case. These documents are under series ExP. 72 and are allegedly Sheikh Saheb's letters which he sent from Kud Sub-Jail to some of his friends and acquaintances. Rather, they are said to be copies of those letters, alleged to be in the handwriting of Pir Abdul Ghani. My general submission about this point is to draw your honour's attention to my answers to questions 100 and 101 which represent my stand, of course definite stand, in respect of these documents and their contents. Without taking your honour's time for reading out those answers, I will generally say that the contents of the documents reveal a definite and considered peaceful policy that Sheikh Saheb advocated to his friends and acquaintances.

Letters bear rigid censorship seal, hence absolutely unobjectionable :

I shall make my brief submission about that later. Meanwhile I request your honour to kindly note a few important attendant circumstances about these documents. It is a common ground that these documents have gone out through the normal channel of jail authorities. These letters were, therefore, duly censored and

bear the seal and signatures of the competent authority, namely the Superintendent, Jail, who in the matter of censorship always would rather err in favour of the government than in favour of the accused and the detenus. That is to say, the censorship was very very rigid. Even in the case of doubt, a letter would rather be suppressed than allowed to go. Sometimes most innocuous matter would not be allowed to go out, which would otherwise be absolutely unobjectionable and unexceptionable. With that fact in mind, the inference is quite legitimate that the jail authorities never thought anything objectionable remotely in these letters and therefore they allowed them to go out.

The distinguished counsel for prosecution has told your honour that the Superintendent, Jail, could not clearly understand the contents and, therefore, he allowed those letters. Sir, with all respect to the distinguished counsel, I might say those Superintendents, especially Sheikh Ferozeuddin, Mr. Ganjoo and others, had vast experience. Sheikh Ferozeuddin is particularly a man of letters and had full knowledge and understanding of these things. Not only that, as subordinate officers of the government, their tendency was universally towards suppressing the letters. They would not allow anything which would be objectionable from the point of view of government. In addition to that this correspondence was subject to censorship of C.R.P. Commandant and his officers. Though officially they would not note down their signatures on the letters but actually all these piles of letters would go to them also. They would satisfy themselves from their point of view also. This fact is corroborated by the entry, your honour might have noted, on jail registers, in regard to the general supervision and

security matters that the C.R.P. exercised over the jail. The contention of the prosecution, therefore, that these papers have been lightly censored is not correct.

Prosecution seeking judicial view be stricter than even executive one !

It is rather surprising that prosecution is seeking from the court that the judicial view about circulation of these documents, i.e. about freedom of speech and conscience, must be more strict and more rigid than that of the executive subordinate officers of the Government. Here your honour has to take a judicial view. There they have had to take executive view. But the prosecution is asking your honour to reverse that. That is to say, what little freedom the executive allowed, the judicial court should disallow.

Letters being conspiratorial, absolutely irrational conclusion :

The prosecution have also said that the general purport of these letters is the same as that of the speeches. In a way it is correct, but certainly not in the sense in which the prosecution mean it. These are letters addressed, your honour will note, to some people generally and are of very general nature. The contents do not reveal any specific message to a particular individual, so that they cannot be understood to mean a personal message. Secondly, their contents relate to high values in human life, a matter common to all human beings. From these two features which are common to these letters, it will be absolutely irrational and illogical to conclude that they are of conspiratorial nature, of any secret nature or of any criminal nature. That contention is absolutely baseless.

Letters preach love and brotherhood :

Thirdly, contents of these letters preach peace, amity, brotherhood, love and communal harmony. Throughout these letters this spirit is predominant and forces itself on the mind of readers.

Self-purification and not use of temporal forces is remedy :

Fourthly, these letters advocate patience, sufferings, forbearance and fortitude in the face of calamities that may befall a man. The writer preaches down to his addressee the gospel from the Quran that his misfortune is due to his own misdeeds and until he reforms himself, there is no relief and remedy. That is to say, the writer forces on the mind of the addressee that self-purification is the remedy [of all ills and not use of any external forces, nor any temporal forces. No. The writer says, purify yourself, build up your own character, and therein lies your salvation.

Spirit of speeches and letters same, but not in prosecution's sense :

Now, Sir, in this sense of the word, I say that their spirit is the same as the spirit of speeches that Sheikh Saheb delivered in Srinagar, with which I have dealt. Your honour will recall that in those speeches Sheikh Saheb moved his audience back to the [central point that the salvation lay in prayers and submission before the Will of God. His central point was that they must revert to God. "Khuda ko yad karo", and "therein lies your salvation", was his message. As in those speeches,

so in these letters, his focal point, central point, is that man must turn to God to redeem himself and to realize his mission in life. That is the essence of what Sheikh Saheb has preached either from Hazratbal platform or in these letters.

Sheikh Saheb profusely quotes from 'Shaheed-e-Azam'—hence letters bear Maulana Azad's theme :

Sir, one word before I conclude. I owe it to your honour to point out that I have been struck with one important feature of these letters when I went through them. The contents of these letters have copiously quoted from late Maulana Abul Kalam Azad's work—"Shaheed-e-Azam"—the Great Martyr, Hazrat Imam Hu-sain, grand-son of the Prophet of Islam. The late Maulana has written a monumental work on the great martyr and Sheikh Saheb has profusely quoted from that and other works of Maulana. Now, Sir, I need not remind that Maulana Azad was one amongst the foremost freedom fighters in India. He was in harness, when he passed away. He was the Minister for Education in the Central Government of India. Sheikh Saheb's letters' central point is Maulana's theme, and round that central point he leads his audience.

I must say that unless this government proscribes Maulana's great book and bans that book as something illegal, it will be a great temerity on behalf of anybody, whomsoever he represents, to say that penal and criminal meaning should be read in the late Maulana's preachings. I am too small a man to comment on him whom history will remember till eternity. I think the prosecution should have read these letters before commenting in the court

that Sheikh Saheb was preaching treason, violence, overthrow of government by quoting passages from Maulana's great book. I said I owe it to your honour to point that out clearly.

Letters full of human values, hence more a defence document :

My final comment is that these letters are full of teachings of human values and that they establish our defence that we believe, as Sheikh Saheb has always done, in communal brotherhood and harmony, in having settlement of political issues by peaceful and democratic methods and that these letters are an irrefutable negation of the allegations brought by prosecution. There is not an iota of indication, even remotest, that Sheikh Saheb, in these letters, advocates use of criminal force or show of criminal force or that he shows any intention whatever to overthrow the government. He does not think of it. Nor is there remotest indication that Sheikh Saheb desires the State to be annexed to Pakistan. The document is more a defence argument. Whatever the prosecution have said by way of comment is only a desire of their mind. It has no relation to facts.

Letter ExP. 58, about flood calamity :

Sir, while on that point I shall deal with some of the letters that have been allegedly seized in circulation. Subject-matter being common, I shall just, for example, refer your honour to some letters of Sheikh Saheb which are alleged to have been seized from the house searches and which are alleged to have been the same as those sent

from Kud Sub-Jail. You may look at ExPs. 58, 114 and 65. Sir, take up the ExP. 58. This letter relates to the natural calamity of floods in Kashmir :

“Barishon ka la-matnahi silsila idhar lhi barabar jari hai. Ek din dhoop rehti hai aur jhir kai din barishon ka silsila jari rehta hai. Kal din aur raat 24 ghanta barabar barish rahi. Aaj matla saaf hai, lekin thandi hawaen chal rahi hain. Rasta badastoor ruka para hua hai. Yih maloom nahin kab theek hoga.”

“Wadi-e-Kashmir se jo bhi khatoot aa rahe hain un men bhi na-masaed mausam ke mutaliq shadeed pare-shani ka izhar kiya ja raha hai. Saari wadi qarib qarib ek jheel ki surat ikhtiyar kar chuki hai. Zamindari ka kam namumkin ban gaya hai.”

Even best opportunity not misused :

He talks about the disastrous consequences of floods in Kashmir. Our memory is fresh and we know what disasters and destructions it entails. Sheikh Sahab himself knew it. All of us know how people are uprooted, how buildings are washed out and how crops are submerged and how loss to property and life is inflicted. If the writer's mind were that of an agitator, interested in creating chaos and confusion and interested in exciting upheaval, no better opportunity could be available to him than when such a catastrophe befalls the masses. In the event of that catastrophe feelings can be enraged to the extent that the administrators will be torn to pieces. We have faced it ourselves. If a person were so minded as to exhort the people to upheaval, to commission of violence and unrest against the government, no better opportunity would come his way than this natural calamity.

Thought of both—Bakshi Saheb's and people's difficulties :

Sheikh Saheb knew it by his own experience, he also knew the mass mind of the Kashmiris that at the time of disasters it is always a matter of touch and go. But he realised Bakshi Saheb's difficulties—the gentleman who has been much used by the prosecution as victim of our hatred, contempt and all that. Sheikh Saheb even in jail thought of his difficulties and thought of the difficulties of the people.

Writer preaches calamity symbolic of our misdeeds :

Far from exploitation of that situation, he says :

“Mera khayal hai ki in qudrati masaib va takaleef ka yaqinan ek achha pehloo bhi hota hai kiyonki yih sakhtian aur azmaishen insan ko apni kotahion, na-farmanion, gumrahion aur gunahon ki taraf mutwajjah karti hai aur mauqa deti hai ki un se bach kar phir hidayat ka rasta ikhtiyar kar le. Hamare मौजूदा takaleef-o-masaib hamari apni bad-amalion ka hi natija hain.”

His preaching is spiritual that “even these inflictions come from God because of your own deeds. Purify your own self. Please set right your own character.”

“Agar ham sambhal gaye aur hamare nawafil va bhandar aur duaen mahz zahiri tamasha nahin balki haqiqatan dil ki tabdili aur un badamlion se ayanda ke liye ijtanab ka izhar hai to yaqin rakhna chahiye ki Allah tala zarur hamare hal par rehm farmayega.”

That whatever penance and repentance, must be a proof of change of heart and renunciation of evil ways. Then God will free us from difficulties.

Limitless betrayal of truth by prosecution :

Now, the prosecution told you that the Superintendent, Jail, did not understand the true meaning of this and therefore allowed it after censorship. Here was an opportunity, if the writer were a conspirator, for him to exploit the situation, but he asks them to turn to God and try to set right the evil ways. Sir, what more refutation should be there of the allegation that Sheikh Saheb indulged in activities of conspiracy to overthrow the government by criminal force and to that end he used means of sending these letters from jail ? There should be a limit to distortions, there should be a limit to betrayal of truth.

Letter ExP. 114, contradicts rumours about Sheikh Saheb's removal to notorious Gajpat Fort, which caused popular concern :

Kindly look at ExP. 114. This is a letter addressed to Mohd. Abdullah Saheb Ganai.

“Chand roz hue ki meri tabdili-e-maqam ke bare men kuchh afwaken phail gai theen jis ki wajah se ahabab men pareshani si paida ho gai thi. Yih afwaken sadaqat se baeed hain. Ham ba-fazile-bari-e-tala bakhairiyat hain aur Khuda tala ki rehmat se hargiz naummid nahin.”

This relates to the incident that a rumour was spread that Sheikh Saheb had been removed from Kud to Gajpat Fort. Your honour knows, from the general notoriety

of the fact, that this Gajpat Fort is the other name of historical horrors that were inflicted on sort of war criminals in old times. What horrors are associated today in the mind of Kashmiri with this Fort are known to you. When this news went round, naturally it spread consternation in the minds of the people about their beloved leader. Anything could be possible at that time, anything in the matter of causing uncontrollable upheaval amongst the people, because they know horror-tales of Gajpat Fort

Govt. and Sheikh Saheb refute rumours :

The government was quick in issuing a communique refuting these rumours as a mischievous lie. Sheikh Saheb does the same.

Instead of keeping quiet writer helps Government :

Now, I may be excused to say that in Kashmir nobody takes notice of such refutation in a government communique. They will not believe it in the nature of things and there would be no purpose served by that communique. If Sheikh Saheb were interested in creating unrest and upheaval, he will keep quiet about it. He had only to watch and keep quiet. Certainly, if a letter did not go out from the jail during those days, people would naturally understand something was wrong and the rumour was correct.

Sheikh Saheb reports his best health :

There were number of telegrams sent, asking about his health. If he had any conspiratorial designs, the only thing for him was to keep quiet. Had he kept quiet, his

silence would have spread unrest. But he categorically refuted the rumour and said he was hale and hearty.

Prosecution's own document refutes all the allegations :

This is another strong proof that far from adding to the worry of the State Government, far from inviting unrest for them, and far from creating complications for them, Sheikh Saheb always, whenever occasion arose, appeased people, allayed their fears and calmed down bad situations, in favour of the government. This is the proof coming from the prosecution document itself. Therefore, Sir, it is a direct contradiction and refutation of the allegations brought by prosecution that these letters, or anything else, were the means used by Sheikh Saheb for provoking people to overthrow the State Government by criminal force and attempt to annex the State with Pakistan. Nothing can be worse travesty of truth. There is not an indication, slightest or remotest, in support of such allegation in these letters.

Writer explains "qurbani" and "roza" as renunciation of mundane desires :

Now, Sir, in ExP. 64, he writes about Id-e-Qurban. He deals with two topics—one is "qurbani" and the other is "roza". I will dispose this in one sentence. About "qurbani" he says :

"Lekin yih qurbani khoon aur gosht ki qurbani na thi balki rooh aur dil ki qurbani thi".

I would not go further into this. He tells the addressee that the essence of sacrifice offered on 'Idul Zuha' is

renunciation of one's own worldly ambitions and mundane desires. The essence of it is that all evil desires and temporal ambitions and mundane aspirations should be sacrificed before the Almighty.

Now, a man desirous of creating hatred against the government will not talk in those terms. Prosecution have told you that Superintendent, Jail, did not understand these letters. That is very funny. And then again, about "roza" he teaches the same principle—purification of mind, renunciation of mundane desires, control of self and abstinence from bad and evil ways. A person desirous of creating upheaval, hatred and contempt would not use that language.

Always preached paramount importance of purification and human values :

These documents also prove that Sheikh Sahab's attempt, whether from Hazratbal platform, Jama Masjid or through Kud jail letters, was always to teach his audience the paramount importance of purifying one's own character and humanising one's values in life. His paramount emphasis was always on human values and dignity of man. All these things totally refute the allegations of the prosecution.

Prosecution allegations challenged as wildest :

I challenge that there is not a word which can remotely give sustenance to, even a suspicion of, that Sheikh Sahab advocated violence, excited people to hatred or incited them to use physical force, criminal force or intended to overthrow the government or even remotely he indicated to annex the State with Pakistan.

These are the wildest allegations when looked at in the context of these letters.

Funny interpretation of a simple letter about poultry hobby :

Incidentally, Sir, I stumbled on a passage used in ExP. 65. It is rather selfish, Sir. I have come across a little useful passage in this letter, to which I may draw your honour's attention. Here it is :

“Khawaja Saheb aur Soofi Saheb badastur kunj-nashin hain. Manager ka kaam Bashir ne sambhal liya hai. Shakkar khor is din ki chhutti par chala gaya hai aur kal wapis aane ki tawaqo hai. Bheden aur murgh sab theek hain. Akhir men akhiri murghi ne panch safaid chooze nikale hain. Aaj ek aur murghi ke neeche ande rakhe hain. Choozon ka injection bhi karaya gaya.”

I would draw your attention to ExP. 117. It talks of poultry which we kept in jail. I share that hobby with Sheikh Saheb. It is a letter dated 31-12-57. So, there are ‘ande’, ‘murghi’, ‘murghi ke neeche ande’, etc. Everything tallies with what I said in my letter ExP. 117 which is challenged by the prosecution. Some eggs have come off and he has five chicks.

Prosecution's obsession—saw bombs etc. in eggs :

Sir, I hold the whole prosecution case is full of obsession and mental trouble. There is nothing in these eggs, but the obsession is there. Prosecution saw bombs in eggs, gun-cotton slabs in eggs, booby-traps in eggs. So, here is a confirmation of my peaceful hobby of raising poultry, which I explained to your honour in refer-

ence to document ExP. 117 ! That is my letter from Central Jail, Jammu, to Sheikh Saheb in Sub-Jail, Kud.

I have done with these letters and circulars.

Contents belie all allegations :

Sir, my summing up about these letters, whether they were found in circulation or are copies in ExP. 72, is that there is no evidence whatever supporting the contention of the prosecution that Sheikh Saheb through these letters, or any one of them, advocated violence or use of criminal force or even indicate overthrow of the government.

Prosecution plea of alleged personification extremely baseless :

I have dealt at length with the prosecution contention that Sheikh Saheb in his speeches had personified himself with truth and personified or identified his adversaries with falsehood. I have submitted that it is extremely baseless. I am talking of this now again because similar expressions your honour may come across in these letters. I have then submitted and I submit now that any reformer, any leader of Sheikh Saheb's stature and his status and history round him, would always concentrate people's mind on truth and love. He believes that is the one way of reforming the people and in upholding the cause of truth he has always to tell them that truthful path will only lead them to goal and success. That is what is meant by "truth will prevail". The path of truthfulness will lead them to success and to their life's ambition. It does not mean that adversaries are untrue and full of lies, as prosecution has said.

Does Government of India's motto 'Satyameva Jayate' personify India only with Truth ?

Government of India hangs up that motto and emblem in Prime Minister's office, Parliament House, and Rashtrapati House. The emblem is "Truth Shall Prevail". If we accept the prosecution line of argument, it will mean that India is truth and the rest of the world are lie and that India personifying itself with truth and rest of the countries with lies and falsehood. That is a preposterous inference. You keep this emblem and motto to remind the people constantly that their path must be of non-violence and truth in their private and public dealings, in individual and official acts. Truth and truth alone must be their guiding light. That is why Sheikh Saheb says it. It does not mean that falsehood and lie is on the other side.

Gandhiji wrote such letters from Jail :

Your honour may also remember a historical event that when Gandhiji was in jail, his letters used to go out or used to be published and circulated in 'Harijan' journal. Now, Sir, I am only to remind you that there is not the remotest, vaguest matter, lending support to even a suspicion that an offence of the nature of which we are charged has been committed. There is not the remotest matter which justifies that suspicion from these documents. They prove the defence to the hilt and refute these charges of the prosecution.

E R R A T A

Page	Para	Line	Read	Instead of
35	3	7	pledged	pledged,
45	Footnote	2	steal	steel
48	4	3	not	no
57	2	4	failed	faild
58	2	8	Kuchh	Kucho
58	2	10	Chunanche	Chunache
58	2	12	main ne	mainen
58	2	13	men	me
58	2	17	Chunanche	Chunachc
58	2	20	men	mein
58	2	24	men	mein
58	2	26	Khuda tala	Khudatala
59	1	1	Makar-o-fareb	Mak'r-o-fareb
59	1	3	Khuda tala	Khudatala
59	1	3	Makar-o fareb	Mak'r-o-fareb
59	1	16	yih	Yih
62	1	6	not	nor
63	3	6	confidence	coufidence
63	3	8	unconstitu- tional	u constitutional
64	3	7	Therein	There in
64	3	9	citizen	critizen
65	3	1	pehchanane	pehchanne
66	4	2	frequently	frenquetly
68	2	10	gerrymandering	gerry-mandering
68	4	1	chunanche	chunache

Page	Para	Line	Read	Instead of
71	1	9	sake	saka
72	3	6	authorities	anthorities
75	1	6	Chunanche	Chunache
76	subheading		alternatives,	alternations
78	1	1	Sheikh	Sheik
79	2nd. sub-heading		Assurance-	Assurance
79	4	3	am	aim
82	sub-heading		Gandhiji's sacrifice	Gandhiji sacrifice
82	3	3	say	sav
83	1	2-3	inference	infrence
83	sub-heading		We, your enemies—	We, your enemies
84	1	1	misunderstand-	mistunderstand-
			ings	ings
84	3	4	article	artcicle
86	3	4	men	me
91	1	1	ba'is-e-ruswai	ba' is-e-ruswai
91	2	2	practise	practice
91	4	3	follow	allow
92	3	5	Madina	Madine
97	6	5	tranquillity	tranquility
108	1	8	the	thc
108	1	10	allowed	allowcd
108	3	5	samajhna chahiye taki	smajhna taki
109	1	4	In	Is
109	1	11	kiya	kiye
110	5	2	chala	cholo
112	4	8	scared	sacred
113	1	5	army,	army.

Page	Para	Line	Read	Instead of
114	2	14	ki	ke
116	2	2	qaidi (italics)	qedi
117	4	2	friends	frinends
118	2	2	4/5 din	4 5 din
121	1	1	reporter	reporter.
123	—	7	Speeches :	Speech :
125	1	2	Hazratbal	Hazartbal
125	4	2	Hazratbal	Aazaatbal
126	1	3	rules out the use	rules out of the use
127	2	2	sath kiya kiya.	sath kiya.
127	2	7	firqa	firqua
127	4	1	kehne	kahne
128	3	3	secular min- dedness	secula rminded- ness
129	1	2	appreciating	appreciatnig
130	2	3	ghaaron	gharon
130	4	2	qatal-o-gharat	qatla-o-gharat
130	6	2	Hindus'	Hindu
133	5	1	qaum	quam
135	5	1	waade	waede
135	5	3	waadon	waedon
135	9	2	falsafa	falsafi
136	5	2	Prime Minister	Prime Ministr
136	7	4	constitutional	constitutianal
137	4	2	legal	lcal
139	5	3	nikle	nikalte
140	2	1	taluuq	ta'luq
140	2	2	kehte	kahte
140	6	1	chheenana	cheenna
140	6	2	chheenana	cheenna

Page	Para	Line	Read	Instead of
141	1	3	rulers	rulers.
141	5	1	men	mein
142	5	1	dene	dena
142	6	1	me'-	me'
143	3	1-2	stead-fast.	stead-fast,
144	3	5	reasoning	rersoning
145	3	3	ho, shumal	he, shumbal
145	5	3	shumal	shumol
146	4	2	kal tak hamare	kal hamara
146	4	3	karne	karue
147	2	1	Bakhshion	bakhshion
147	2	3	Main ne	Mainnen
148	2	7	Whoever	Who ever
148	3	3	repudiates	repudiate
148	3	5	towards	tow ards
148	3	16	plebiscite	plebiscite
150	2	3	hai falan	hai. falan
150	4	1	Khuda	khuda
150	6	2	kis ko kehte	kisko kehtehain
			hain	
150	6	3	Khuda	khuda
151	1	1-2	booby-traps	booby, traps
151	2	2	rehna chahiye."	rahna chahiye,"
151	3	1	Put	put
152	5	2-3	live a peaceful	live peaceful
155	5	2	jama'at	jamaia
156	2	1	layen	laen
157	6	1	emphasizing	emphasing
159	4	2	order, to	order to
163	4	1	later	letter
164	4	4	ajeeb-o-gharib	ajee-o-gharib

Page	Para	Line	Read	Instead of
165	3	2	ko	ku
167	5	1	wajah	waljah
167	6	1	“Nafs-e-amara ki lagam”	“Nafs-e-amara lagam”
170	4	2	forces of god- liness	forces godliness
170	5	3	somebody	somebcdy
172	2	5	fits.	fits
173	1	1	his	two
173	1	6	goondas.	goondas
174	9	2	uthayegi	uthaegi
175	1	1	hai. Chunanche	hai Chunanche
175	3	9	mere	mera
176	3	2	hi	he
176	5	1	jail	jial
179	3	16	background	back ground
179	3	16	mind.	mind
183	1st sub-heading		Overall	Over all
188	2	1	qaum	quam
190	6	2	qaum	quam
198	3	4	Being	Beiag
198	2nd sub-heading		self-determi-	self-determi
200	3	5	deta hai, jab	deta, jab
201	4	2	kiyon	kiyun
202	4	7	Sura	Sur
203	1	6	irrespective	irrespectative
205	1st sub-heading		Sherwani	Sharwani
206	1	2	‘istabadadiyat’	‘istibadadiyat’
206	2	4	cheez	chiz
206	2	7	ham	hum
206	2	11	Allah-tala	Allah-taal
209	3	1	self-determina- tion, you	self-determina- tion and you

Page	Para	Line	Read	Instead of
211	2nd sub-heading		solar	soler
212	4	3	zanjiren	zanjirin
215	4	5	mustqabil	mustaqbil
217	2	4	uthayen	uthain
217	5	1	Khanqah-e-	Khanqah e
217	6	2	ta hal	tahal
223	1	6	Aaj jo	Aajjo
223	2	14	denunciation	denuciation
224	6	1	Pharaoh	Pharaoah
236	4	2	line	l ne
240	3	3	rupiyon	rupyon
240	5	1	mere	mera
247	2	2	•Main	•Main
254	4	3	darayen, dham-kayen	daraen, dham-kaen
254	4	4	jhukayen.	jhukaen.
271	4	7	“lanat va	“lanatva
271	4	12	jaye.”	aye.”
276	3	3	Is it	It is
278	3	7	chahiye.”	chahiye.
278	4	3	wrong-doer,	drong-doer.
279	3	5	unki izzat-o-aabroo	unki; izzat-o-aabroo
279	7	2	phir	peir
311	3	10	dikhai	d khai
311	3	19	hain	ha n
320	4	5	monkey	monky
343	2	13	Pakistan.	Pakistan No-thing
346	3	3	there is	thereis

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Published by Kh. Mubarak Shah, Defence Counsel and
Publicity Secretary, J&K Legal Defence Committee,
Shaheedganj, Srinagar, Kashmir.

Printed for him at—

Roop Bharti Printers, 151 E, Kamla Nagar, Delhi-6.

MIRZA MOHAMMED AFZAL BEG,

Anantnag (Kashmir). Age 52 years. Eminent lawyer, able Parliamentarian. Close and old comrade of Sheikh Mohammed Abdullah. Held important posts in National Conference upto 9th August 1953. Prior to 1947 a leading member of the All-India States Peoples Conference headed by Shri Jawaharlal Nehru. Later a member from Kashmir to the Indian Constituent Assembly. An elected member of J & K Legislative Assembly since 1944. First popular minister in dyarchical form of government in 1944. Resigned in 1946, joined the 'Quit Kashmir' movement and often jailed. Earned from Maharaja's government the name of "jail bird". Worked in various capacities during Emergency Administration. Later Revenue & Rehabilitation Minister in Sheikh Abdullah's cabinet. Implemented revolutionary agrarian and debt relief reforms. Chairman, Fundamental Rights Committee and Secretary, Basic Principles Committee of the State Constituent Assembly. Detained on August 9, 1953, along with Sheikh Mohammed Abdullah. Released in 1954. From January 1955 leader of first opposition group in the State Assembly called "Democratic front." Organised legal defiance work for political cases.

Founder-President of Plebiscite Front in 1955. Re-detained in 1955. Released for 6 days in 1956 to attend the Constituent Assembly which he boycotted, resulting in his being taken under detention in October 1956. In May, 1958, a case of conspiracy was launched against him and 27 others, later known as the Kashmir Conspiracy Case.